CERTAIN TARIFF AND TRADE BILLS

HEARINGS

BEFORE THE

SUBCOMMITTEE ON TRADE

OF THE

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HOUSE OF REPRESENTATIVES

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CONTENTS

Page

Press releases of April 11 and 21, 1983, announcing hearings 1

WITNESSES

Department of Agriculture:
- Carol Harvey, Deputy Director for Analysis, Dairy, Livestock, and Poultry Division, Foreign Agricultural Service; and Gilbert Sindelar, Director, Horticultural and Tropical Products Division, Foreign Agricultural Service 6
- Carol Harvey, Deputy Director for Analysis, Dairy, Livestock, and Poultry Division 351

Department of Commerce:
- Bruce Jon Miller, Director, Consumer Goods and Automotive Industries Division, International Trade Administration; Barbara A. Steinbock; and Joseph Spetrini 6
- Bruce Jon Miller, Director, Consumer Goods and Automotive Industries Division, International Trade Administration 351

U.S. Customs Service, Arthur I. Rettinger, Office of the Chief Counsel 6
U.S. International Trade Commission, Leo Webb, Office of Tariff Affairs 351
U.S. Trade Representative, Sandy Kristoff, International Economist 6

Ad Hoc Committee of American Vinyl Distributors and Finished Vinyl Goods Manufacturers, Royal Daniel III 282
Alexander, Donald C., Knoll Fine Chemicals 87
Alpert, Robert, Tubular Corp. of America, Inc 41
American Apparel Manufacturers Association, John Silverthorne, G. Stewart Boswell, amd Fred Shippee 244
American Hungarian Federation, Inc., Laszlo Pasztor 577
American Mushroom Institute, Richard W. and Marge Edwards 348
American Netting Manufacturers Organization:
- Reginald N. Steele 356
- H. Donald Whitlow and J. D. Williams 362

American Pipe Fittings Association, Paul H. Engle, Jr., and Robin Johnson 569
ASARCO, Inc., Emil A. Romagnoli 304
Auerbach, John and Robert, Cycle Parts & Accessories Association, Inc 503
Bedelis, Anita, Freedom Federation 599
Blue Mountain Industries, H. Donald Whitlow 362
Bodner, Seth, National Knitwear & Sportswear Association, on behalf of Norbert K. Hibshman 234
Bond, A. Dewey, National Meat Canners' Association 324
Boswell, G. Stewart, American Apparel Manufacturers Association 244
Breton, Michael, Siebe-Norton, Inc., on behalf of the Work Glove Manufacturers Association 222
Brunswick Corp., Robert E. Dorsee 280
Butler, Frank E., Sherwin-Williams Co 239
Campbell, Hon. Carroll A., Jr., a Representative in Congress from the State of South Carolina 222
Canned and Cooked Meat Importers' Association, Jack Neaylon 313
Carlisle Tire & Rubber Co., John W. Guffey, Jr 493
Cast Metals Federation, A. Wayne Hardy 573
Chenoweth, J. W., Lone Star Steel Co 174
Columbus Foundries, Inc., A. Wayne Hardy 573

	Page
Connaughton, Thomas A., Frank W. Winne & Son, Inc	403
Coordinating Committee of Hungarian Organizations in North America, Istvan B. Gereben	579
Cordage Institute, William R. O'Dell and Rober Keefe	373
Creskoff, Stephen:	
National Association of Foreign Trade Zones	334
On behalf of Joseph F. O'Connor	443
Cycle Parts & Accessories Association, Inc., John Auerbach and Robert Auerbach	503
Dallas/Fort Worth Regional Airport Board, Ernest E. Dean and William M. Methenitis	331
Damm, Roger C., Motorola, Inc., on behalf of the Semiconductor Industry Association	213
Daniel, Royal, III, Ad Hoc Committee of American Vinyl Distributors and Finished Vinyl Goods Manufacturers	282
Dean, Ernest E., Dallas/Fort Worth Regional Airport Board	331
Deese, C. Michael, Fabrics Industry Coalition	272
de Lugo, Hon. Ron, a Delegate in Congress from the Virgin Islands	430
DeNood, Lavinia, Flowers Antigua, Inc	152
Dorsee, Robert E., Brunswick Corp	280
du Pont, E. I., Robert L. Heffelfinger	253
Edgar, Hon. Bob, a Representative in Congress from the State of Pennsylvania	291
Edwards, Richard W. and Marge, American Mushroom Institute	348
Engle, Paul H., Jr., American Pipe Fittings Association	569
Ethyl Corp., Max Turnipseed and Elbert E. Moore, Jr	228
Fabrics Industry Coalition, Fred E. Magenheimer and C. Michael Deese	272
Feller, Peter Buck, Titanium Dioxide Industry Group	253
Florists' Transworld Delivery Association, Don Flowers and Gordon Smith	123
Flowers Antigua, Inc., Lavinia DeNood	152
Flowers, Don, Florists' Transworld Delivery Association	123
Ford, Hon. Harold, a Representative in Congress from the State of Tennessee	353
Freedom Federation, Anita Bedelis	599
Fritts, Charles H., New Bedford Seafood Council	364
Gadbaugh, Michael, Semiconductor Industry Association	213
Gereben, Istvan B., Coordinating Committee of Hungarian Organizations in North America	579
Gilliland, Paul W., National Automobile Theft Bureau	542
Glynn, William T., Hitox Corp., on behalf of the Titanium Dioxide Industry Group	253
Government Employees Insurance Co., Donald D. Messmer	567
Guffey, John W., Jr., Carlisle Tire & Rubber Co	493
Gutting, Richard E., Jr., National Fisheries Institute	370
Hall, Hon. Sam B., Jr., a Representative in Congress from the State of Texas	31
Hardy, A. Wayne, Columbus Foundries, Inc., on behalf of the Cast Metals Federation	573
Harris, D. George, SCM Corp., on behalf of the Titanium Dioxide Industry Group	253
Heffelfinger, Robert L., E. I. du Pont, on behalf of the Titanium Dioxide Industry Group	253
Herculite Products, Inc., Fred E. Magenheimer	272
Hibshman, Norbert K. (*See*, National Knitwear & Sportswear Association.)	
Hitox Corp. of America, William T. Glynn	253
Hollman, Jerry, Uniroyal Chemical	267
Hover Systems, Inc., Joe Zador	292
Huffy Corp., Robert Wieland and Paul C. Rosenthal.	441
Industrial Fabrics Association International, Fred E. Magenheimer	272
Johnson, Robin:	
Plastics Manufacturing Co	301
American Pipe Fittings Association	569
Katzman, Warren, Philipp Bros., Inc	269
Keefe, Robert, Cordage Institute	373
Kerr-McGee Chemical Corp., Donald F. Schiesz	248
Kimberly-Clark Corp., Robert F. Rieter, Jeanne H. van der Wal, and Richard H. Kimberly	56
Kimberly, Richard H., Kimberly-Clark Corp	56
Kindness, Hon. Thomas N., a Representative in Congress from the State of Ohio	439

	Page
Knoll Fine Chemicals, Donald C. Alexander	87
Knox, James, E., Lone Star Steel Co	174
Krone, James C., Roses, Inc	90
Lead-Zinc Producers Committee, Emil A. Romagnoli and Stanley Nehmer	232
Lehman, Leonard, Uniroyal Chemical	267
Lone Star Steel Co., James E. Knox, J. W. Chenoweth, and Richard E. Rivers	174
Mackwell, Arthur M., Philipp Bros., Inc	269
Magenheimer, Fred E., Herculite Products, Inc., and Industrial Fabrics Association International, on behalf of the Fabrics Industry Coalition	272
McGrath, Matthew T., Uniroyal Chemical	267
McIntyre, Robert, Surgikos, Inc	52
Meeks, Jeffrey A., VO Toys, Inc	427
Melamine Chemicals, Inc., Jay Stone	295
Messmer, Donald D., Government Employees Insurance Co., on behalf of the National Association of Independent Insurers	567
Methenitis, William M., Dallas/Fort Worth Regional Airport Board	331
Miller, James H., Plastics Manufacturing Co	301
Moore, Elbert E., Jr., Ethyl Corp	228
Moore, Hon. W. Henson, a Representative in Congress from the State of Louisiana	293
Motorola, Inc., Roger C. Damm	213
National Association of Foreign Trade Zones:	
Stephen Creskoff	334
Stephen Creskoff on behalf of Joseph F. O'Connor	443
National Association of Independent Insurers, Donald D. Messmer	567
National Automobile Theft Bureau, Paul W. Gilliland	542
National Fisheries Institute, Richard E. Gutting, Jr	370
National Knitwear & Sportswear Association, Seth Bodner and Stanley Nehmer on behalf of Norbert K. Hibshman	234
National Meat Canners' Association, A. Dewey Bond	324
Neaylon, Jack, Sampco, Inc., on behalf of the Canned and Cooked Meat Importers' Association	313
Nebel, George C., Roadmaster Corp	497
Nehmer, Stanley:	
Work Glove Manufacturers Association	222
Lead-Zinc Producers Committee	232
National Knitwear & Sportswear Association	234
New Bedford Seafood Council, Charles H. Fritts	364
Nordlie, Inc., James O. Nordlie	155
Nylon Net Co., Reginald N. Steele	356
O'Connor, Joseph F. (*See*, National Association of Foreign-Trade Zones.)	
O'Dell, William R., Wellington Puritan Mills, Inc., on behalf of the Cordage Institute	373
Panetta, Hon. Leon E., a Representative in Congress from the State of California	120
Pasztor, Laszlo, American Hungarian Federation, Inc	577
Pawsat, Carlton P., Wald Manufacturing Co., Inc	446
Perkins, Hon. Carl D., a Representative in Congress from the State of Kentucky	434
Phelps Dodge Corp., Emil Romagnoli	304
Philipp Bros., Inc., Warren Katzman and Arthur M. Mackwell	269
Pillowtex Corp., John Silverthorne	244
Plastics Manufacturing Co., James H. Miller and Robin Johnson	301
Ratchford, Hon. William R., a Representative in Congress from the State of Connecticut	266
Rieter, Robert F., Kimberly-Clark Corp	56
Rivers, Richard E., Lone Star Steel Co	174
Roadmaster Corp., George C. Nebel	497
Romagnoli, Emil:	
ASARCO, Inc., and Phelps Dodge Corp	304
ASARCO, Inc., on behalf of the Lead-Zinc Producers Committee	232
Rosenthal, Paul C., Huffy Corp	441
Roses, Inc., James C. Krone, C. Richard Wright and Eugene L. Stewart	90
Rossides, Eugene T., Surgikos, Inc	52
Sampco, Inc., Jack Neaylon	313
Schiesz, Donald F., Kerr-McGee Chemical Corp	248
Schulz, Craig, Work Grove Manufacturers Association	222

Page

Schulze, Hon. Richard T., a Representative in Congress from the State of Pennsylvania ... 346
SCM Corp., Chemical Division, D. George Harris ... 253
Semiconductor Industry Association, Roger C. Damm and Michael Gadbaugh ... 213
Sherwin-Williams Co., Frank E. Butler, Kenneth H. Wilkinson, and Randolph J. Stayin ... 239
Shippee, Fred, American Apparel Manufacturers Association ... 244
Siebe-Norton, Inc., Michael Breton ... 222
Silverthorne, John Pillowtex Corp., on behalf of the American Apparel Manufacturers Association ... 244
Smith, Gordon, Florists' Transworld Delivery Association ... 123
Stayin, Randolph J.:
  Sherwin-Williams Co ... 239
  Wald Manufacturing Co., Inc ... 446
Steele, Reginald N., Nylon Net Co., on behalf of the American Netting Manufacturers Organization ... 356
Stewart, Eugene, L. Roses, Inc ... 90
Stone, Jay, Melamine Chemicals, Inc ... 295
Surgikos, Inc., Eugene T. Rossides and Robert McIntyre ... 52
Taft, Robert, Jr., Wald Manufacturing Co., Inc ... 446
Titanium Dioxide Industry Group, William T. Glynn, D. George Harris, Robert L. Heffelfinger, and Peter Buck Feller ... 253
Tubular Corp. of America, Inc., Robert Alpert ... 41
Turnipseed, Max, Ethyl Corp ... 228
Uniroyal Chemical, Jerry Hollman, Leonard Lehman, and Matthew T. McGrath ... 267
van der Wal, Jeanne H., Kimberly-Clark Corp ... 56
VO Toys, Inc., Jeffrey A. Meeks ... 427
Wald Manufacturing Co., Inc., Carlton P. Pawsat, Randolph J. Stayin, and Robert Taft, Jr ... 446
Wellington Puritan Mills, Inc., William R. O'Dell ... 373
Whitlow, H. Donald, Blue Mountain Industries, on behalf of the American Netting Manufacturers Organization ... 362
Whitten, Hon. Jamie L., a Representative in Congress from the State of Mississippi ... 51
Wieland, Robert, Huffy Corp ... 441
Wilkinson, Kenneth H., Sherwin-Williams Co ... 239
Williams, J. D., American Netting Manufacturers Organization ... 362
Winne, Frank W., & Son, Inc., Thomas A. Connaughton ... 403
Work Glove Manufacturers Association, Michael Breton, Craig Schulz, and Stanley Nehmer ... 222
Wright, C. Richard, Roses, Inc ... 90
Wright, Hon. Jim, a Representative in Congress from the State of Texas ... 330
Zador, Joe, Hover Systems, Inc ... 292

SUBMISSIONS FOR THE RECORD

Adams, Robert, Northbrook, Ill., letter ... 656
Almax Sportswear Corp., Norman M. Weisfeld, letter ... 739
American Association of Exporters and Importers, Eugene J. Milosh, letter ... 799
American Beekeeping Federation, Inc., Frank A. Robinson, statement ... 657
American Car Rental Association, statement ... 744
American Cycle Systems, Inc., Charles W. Stephens, letter ... 616
American Farm Bureau Federation, John C. Datt, letter ... 730
American Hoechst Corp., Karl A. Hochschwender, letter ... 859
American Reusable Textitle Association, Inc., Howard M. Zins, letter ... 671
Andersen, Edward, National Grange, letter ... 771
Anderson, Conrad, Sun Metal Products, Inc., statement ... 619
Ashcroft, R. E., Kerley Industries Inc., letter ... 871
Association of Floral Importers of Florida, Dwight Haight, statement ... 641
Association of Food Industries, Inc., Richard J. Sullivan, letter ... 771
Automotive Service Industry Association, Gregory Billups, statement ... 773
Barnard, Hon. Doug, Jr., a Representative in Congress from the State of Georgia, statement ... 730
BASF Wyandotte Corp., Robert G. Thoma, letters ... 629, 890, 892
Battery Council International, Robert H. Wilbur, letter ... 893
Baukol, Ronald O., Riker Laboratories, Inc., Minnesota Mining & Manufacturing Co., statement ... 841

	Page
Bernard, Bob, Earthwork Farms, letter	659
Bertalan, Rev. Imre, Hungarian Reformed Federation of America, letter	902
Best Honey Farms, Oren Best, letter	658
Biddle Sawyer Corp., Siegel, Mandell & Davidson, letter	859
Billups, Gregory, Automotive Service Industry Association, statement	773
Bosquet, Paul, La Choy Food Products, statement	761
Bower, A. J., Bridon Cordage Inc., letter	730
Bridon Cordage Inc., A. J. Bower, letter	730
Brownsville Navigation District, Al Cisneros, letter	620
Byrne, Don, Falmouth, Mich., letter	658
Central Florida Beekeepers Association, Marilyn Webb, letter	658
Chile, Embassy of, Ambassador Enrique Valenzuela, letter	692
Cisneros, Al, Brownsville Navigation District, letter	620
Cohen, Sheldon, Magid Glove & Safety Manufacturing Co., letter	795
Commission of Security And Cooperation in Europe, Hon. Dante B. Fascell, letter	901
Container Corp. of America, letter	642
Cornette, Earl B., Schuylkill Metals Corp., letter	821
Crooked Creek Apiaries, Howard and Luetta Waddell, and John and Carolyn Scott, joint letter	659
Datt, John C., American Farm Bureau Federation, letter	730
Davis, Hon. Robert W., a Representative in Congress from the State of Michigan, statement	692
Diamond Shamrock Corp., Frank Hicks, statement	869
duPont de Nemours, E.I., & Co., statement	672
Earthwork Farms, Bob Bernard, letter	659
Edwards, Hon. Jack, a Representative in Congress from the State of Alabama, statement	757
Elbe Products, Inc., Robert B. Silverman, statement	774
Elrae Industries, Inc., Anthony J. Mancuso, letter	617
EM Chemicals, Beth C. Ring, letter	812
Fascell, Hon. Dante B., Commission of Security and Cooperation in Europe, letter	901
First Washington Net Factory, Inc., Carl Koring, letter	852
Florida State Beekeepers Association, William Merritt, letter	659
Gannon, Richard, Royal Air Force Apiaries, Inc., letter	662
Gephardt, Hon. Richard A., a Representative in Congress from the State of Missouri, letter	788
Goldsmith, Richard C., North Pacific Fishing Vessel Owners' Association, letter	852
Grabiel, Floyd E., Universal Cooperatives, Inc., letter	737
Grad, Peter P., Papst Mechatronic Corp., letter and attachment	698
Greenberg, Eldon V. C. Southeastern Fisheries Association, statement	853
Gross, Lawrence W., Winding Brook Farm, letter	665
Haight, Dwight, Association of Floral Importers of Florida, statement	641
Hartnett, Hon. Thomas F., a Representative in Congress from the State of South Carolina, statement	634
Hercules Inc., statement	673
Hicks, Frank, Diamond Shamrock Corp., statement	869
Hiltzheimer, Charles I., Sea-Land Industries, Inc., statement	894
Hinkston, Paul R., Scorpion Cycle, Inc., letter	618
Hochschwender, Karl A., American Hoechst Corp., letter	859
Holt, Hon. Marjorie S., a Representative in Congress from the State of Maryland, statement	603
Hungarian Reformed Federation of America, Rev. Imre Bertalan, letter	902
Industrial Distributors Inc., Keystone Wausau Pipe & Supply Division, William A. Stack, letter	837
Industrial Fabrics Association International, Fred E. Magenheimer, letter	782
International Association of Assessing Officers, Ian W. McClung, statement	620
Ireland, Hon. Andy, a Representative in Congress from the State of Florida, statement	866
James, Gordon D., Libby, McNeill & Libby, Inc., letter	899
Jones, Charlie W., Man-Made Fiber Producers Association, Inc., letter	31
Journal of Commerce, Eric Ridder, statement	799
Kerley Industries Inc., R. E. Ashcroft, letter	871
Kirkham, Lawrence A., Syntex Corp., letter	630
Koring, Carl, First Washington Net Factory, Inc., letter	852
Krause, George, Wind River Honey Co., letter	665

Page

Krause, Larry, Wyoming Beekeepers Association, letter 665
La Choy Food Products, John G. Milliken, Paul Bosquet, joint statement 761
Ladish Co., R. B. Steele, letter 837
Libby, McNeill & Libby, Inc., Gordon D. James, letter 899
McClung, Ian W., International Association of Assessing Officers, statement 620
Magid Glove & Safety Manufacturing Co., Sheldon Cohen, letter 795
Magenheimer, Fred E., Industrial Fabrics Association, International, letter 782
Malik, M. A. Jabar, MRM Industries, letter 694
Mancuso, Anthony J., Elrae Industries, Inc., letter 617
Man-Made Fiber Producers Association, Inc., Charlie W. Jones, letter 731
Mayor, A. J., United States Lines, Inc., letter 732
Merritt, William, Florida State Beekeepers Association, letter 659
Milliken, John G., La Choy Food Products, statement 761
Milosh, Eugene J., American Association of Exporters and Importers, letter 799
Morris, Bill, Greeley, Colo., letter 660
MRM Industries, M. A. Jabar Malik, letter 694
National Association of Tax Administrators, Leon Rothenberg, letter 625
National Bearings Co., James R. Schoeplein, letter 618
National Cattlemen's Association, Wm. J. Waldrip, letter 900
National Council for United States-China Trade, Roger W. Sullivan, letter 762
National Grange, Edward Andersen, letter 771
National Honey Packers & Dealers Association, N. David Palmeter, letter 660
National Marine Manufacturers Association, Ron Stone, letter 604
Neureuther, Rob, Hartland, Wis., letter 661
Nichols, Hon. Bill, a Representative in Congress from the State of Alabama, letter 852
Northern Textile Association, Karl Spilhaus, letter 715
North Pacific Fishing Vessel Owners' Association, Richard C. Goldsmith, letter 852
Palmeter, N. David, National Honey Packers & Dealers Association, letter 660
Papst Mechatronic Corp., Peter P. Grad, letter and attachment 698
Peninsula Honey Co., Thomas Speerstra, letter 661
Queen Bee Gardens, Clarence B. Zeller, letter 661
Ray, Hon. Richard, a Representative in Congress from the State of Georgia, statement 673
Regula, Hon. Ralph, a Representative in Congress from the State of Ohio, statement 740
Ridder, Eric, Journal of Commerce, statement 799
Riker Laboratories, Inc., Minnesota Mining and Manufacturing Co., Ronald O. Baukol, statement 841
Ring, Beth C., EM Chemicals, letter 812
Robinson, Frank A., American Beekeeping Federation, Inc., statement 657
Rodenberg, Harry, Sioux Honey Association, letter 662
Rothenberg, Leon, National Association of Tax Administrators, letter 625
Royal Air Force Apiaries, Inc., Richard Gannon, letter 662
St Germain, Hon. Fernand J., a Representative in Congress from the State of Rhode Island, statement and attachment 703
Schmidt, Donald R., Winner, S. Dak., letter 662
Schoeplein, James R., National Bearings Co., letter 618
Schulze, Hon. Richard T., a Representative in Congress from the State of Pennsylvania, statement 717
Schuylkill Metals Corp., Earl B. Cornette, letter 821
Scorpion Cycle, Inc., Paul R. Hinkston, letter 618
Scott, John and Carolyn, Crooked Creek Apiaries, joint letter 659
Sea-Land Industries, Inc., Charles I. Hiltzheimer, statement 894
Sekin, Darrell J., & Co., Darrell J. Sekin, letter 626
Siegel, Mandell & Davidson, Biddle Sawyer Corp., letter 859
Silverman, Robert B., Elbe Products, Inc., statement 774
Sioux Honey Association, Harry Rodenberg, letter 662
Slater, Kermit, Miles City, Mont., letter 663
Smith, Mr. and Mrs. Walter E., and Mr. and Mrs. John G., joint letter 663
Southeastern Fisheries Association, Inc., Eldon V. C. Greenberg, statement 853
Speerstra, Thomas, Peninsula Honey Co., letter 66
Spilhaus, Karl, Northern Textile Association, letter 715
Stack, William A., Industrial Distributors Inc., Keystone Wausau Pipe & Supply Division, letter 837
Stark, Hon. Fortney H. (Pete), a Representative in the Congress from the State of California, letters 731, 745, 816

Page

Steele, R. B., Ladish Co., letter 837
Steinberg, David J., U.S. Council for an Open World Economy, statement 601
Stephens, Charles W., American Cycle Systems, Inc., letter 616
Stone, Milan, United Rubber, Cork, Linoleum & Plastic Workers of America, statement 783
Stone, Ron, National Marine Manufacturers Association, letter 604
Studds, Hon. Gerry E., a Representative in Congress from the State of Massachusetts, statement 854
Sullivan, Richard J., Association of Food Industries, Inc., letter 771
Sullivan, Roger W., National Council for United States-China Trade, letter 762
Sun Metal Products, Inc., Conrad Anderson, statement 619
Sunstar Foods, Inc., Tom A. Swanson, letter 663
Swanson, Tom A., Sunstar Foods, Inc., letter 663
Syntex Corp., Lawrence A. Kirkham, letter 630
Thoma, Robert G., BASF Wyandotte Corp., letters 629, 890, 892
United Rubber, Cork, Linoleum & Plastic Workers of America, Milan Stone, statement 783
United States Lines, Inc., A. J. Mayor, letter 732
Universal Cooperatives, Inc., Floyd E. Grabiel, letter 733
U.S. Council for an Open World Economy, David J. Steinberg, statement 601
Valenzuela, Ambassador Enrique, Embassy of Chile, letter 692
Victor, Wm. L., Hutto, Tex., letter 664
Waddell, Howard and Luetta, Crooked Creek Apiaries, joint letter 659
Waldrep, Lamar C., Montverde, Fla., letter 664
Waldrip, Wm. J., National Cattlemen's Association, letter 900
Walker, G. C., Jr., Rogers, Tex., letter 664
Wallcovering Manufacturers Association, statement 784
Webb, Marilyn, Central Florida Beekeepers Association, letter 658
Weisfeld, Norman M., Almax Sportswear Corp., letter 739
Westbrook, Alonzo S., III, Goodlettsville, Tenn., letter 664
Wiggins Apiaries, Jay Wiggins, letter 665
Wilbur, Robert H., Battery Council International, letter 893
Wilson, Ralph, Plastics Co., Ralph Wilson, statement 861
Wind River Honey Co., George Krause, letter 665
Winding Brook Farm, Lawrence W. Gross, letter 665
Wyoming Beekeepers Association, Larry Krause, letter 665
Zeller, Clarence B., Queen Bee Gardens, letter 661
Zins, Howard M., American Reusable Textile Association, Inc., letter 671

APPENDIX

[Listed below are agency reports and written comments received on specific bills]

General comments:
U.S. Council for an Open World Economy, Inc., David J. Steinberg, statement 601
H.R. 191:
U.S. International Trade Commission 603
Hon. Marjorie S. Holt, a Representative in Congress from the State of Maryland, statement 603
National Marine Manufacturers Association, Ron Stone, letter 604
H.R. 657:
Department of Commerce 605
U.S. International Trade Commission 605
American Cycle Systems, Inc., Charles W. Stephens, letter 616
Elrae Industries, Inc., Anthony J. Mancuso, letter 617
National Bearings Co., James R. Schoeplein, letter 618
Scorpion Cycle, Inc., Paul R. Hinkston, letter 618
Sun Metal Products, Inc., Conrad Anderson, statement 619
H.R. 717:
Brownsville Navigation District, Al Cisneros, statement 620
International Association of Assessing Officers, Ian W. McClung, statement 620
National Association of Tax Administrators, Leon Rothenberg, letter 625
Sekin, Darrell J., & Co., Inc., Darrell J. Sekin, statement 626
H.R. 908:
Department of Commerce 628
U.S. International Trade Commission 628

	Page
H.R. 908—Continued	
BASF Wyandotte Corp., Robert G. Thoma, letter	629
Syntex Corp., Lawrence A. Kirkham, letter	630
H.R. 1086:	
Department of Commerce	631
U.S. International Trade Commission	631
Hon. Thomas F. Hartnett, a Representative in Congress from the State of South Carolina, statement	634
H.R. 1146:	
U.S. Trade Representative	636
Department of Agriculture	636
U.S. International Trade Commission	637
Association of Floral Importers of Florida, Dwight Haight, statement	641
Container Corp. of America, statement	642
H.R. 1195:	
U.S. Trade Representative	644
Department of the Treasury	644
Department of Agriculture	645
U.S. International Trade Commission	645
H.R. 1217:	
Department of Agriculture	651
U.S. International Trade Commission	651
Adams, Robert, Northbrook, Ill., letter	656
American Beekeeping Federation, Inc., Frank A. Robinson, statement	657
Best Honey Farms, Oren Best, letter	658
Byrne, Don, Falmouth, Mich., letter	658
Central Florida Beekeepers Association, Marilyn Webb, letter	658
Crooked Creek Apiaries, Howard and Luetta Waddell, and John and Carolyn Scott, joint letter	659
Earthwork Farms, Bob Bernard, letter	659
Florida State Beekeepers Association, William Merritt, letter	659
Morris Apiaries, Bill Morris, letter	660
National Honey Packers and Dealers Association, Daniels, Houlihan & Palmeter, letter	660
Neureuther, Rob, Hartland, Wis., letter	661
Peninsula Honey Co., Thomas Speerstra, letter	661
Queen Bee Gardens, Clarence B. Zeller, letter	661
Royal Air Force Apiaries, Inc., Richard Gannon, letter	662
Schmidt, Donald R., Winner, S. Dak., letter	662
Sioux Honey Association, Harry Rodenberg, letter	662
Slater, Kermit, Miles City, Mont., letter	663
Smith, Mr. and Mrs. Walter E., and Mr. and Mrs. John G., Elmwood, Wis., joint letter	663
Sunstar Foods, Inc., Tom A. Swanson, letter	663
Victor, Wm. L., Hutto, Tex., letter	664
Waldrep, Lamar, Montverde, Fla., letter	664
Walker, G. C., Jr., Rogers, Tex., letter	664
Westbrook, Alonzo S., III, Goodlettsville, Tenn., letter	664
Wiggins Apiaries, Jay Wiggins, letter	665
Wind River Honey Co., George Krause, letter	665
Winding Brook Farm, Lawrence W. Gross, letter	665
Wyoming Beekeepers Association, Larry Krause, letter	665
H.R. 1226:	
Department of Commerce	667
U.S. International Trade Commission	667
American Reusable Textile Association, Inc., Howard M. Zins, letter	671
E. I. du Pont de Nemours & Co., statement	672
Hercules Inc., statement	673
Hon. Richard Ray, a Representative in Congress from the State of Georgia, statement	673
H.R. 1318:	
U.S. Trade Representative	676
Department of Commerce	676
U.S. International Trade Commission	677
Chile, Embassy of, Ambassador Enrique Valenzuela, letter	692
Hon. Robert W. Davis, a Representative in Congress from the State of Michigan, statement	692
MRM Industries, M. A. Jabbar Malik, letter	693

	Page
H.R. 1319:	
Department of Commerce	694
H.R. 1410:	
Department of Commerce	695
U.S. International Trade Commission	695
Papst Mechatronic Corp., Peter P. Grad, letter	698
Hon. Fernand J. St Germain, a Representative in Congress from the State of Rhode Island, statement	703
H.R. 1423:	
Department of Commerce	710
H.R. 1583:	
Department of Commerce	711
U.S. International Trade Commission	711
Northern Textile Association, Karl Spilhaus, statement	715
Hon. Richard T. Schulze, a Representative in Congress from the State of Pennsylvania, statement	717
H.R. 1620:	
Department of Commerce	718
U.S. International Trade Commission	718
H.R. 1624:	
Department of Commerce	722
U.S. International Trade Commission	722
American Farm Bureau Federation, John C. Datt, letter	730
Hon. Doug Barnard, Jr., a Representative in Congress from the State of Georgia, statement	730
Bridon Cordage, Inc., A. J. Bower, statement	730
Man-Made Fiber Producers Association, Inc., Charlie W. Jones, letter	731
Hon. Fortney H. (Pete) Stark, a Representative in Congress from the State of California, letter	731
United States Lines, Inc., A. J. Mayor, letter	732
Universal Cooperatives, Inc., Floyd E. Grabiel, letter	733
H.R. 1667:	
Department of Commerce	734
U.S. International Trade Commission	734
H.R. 1740:	
U.S. Trade Representative	739
Almax Sportswear Corp., Norman M. Weisfeld, letter	739
Hon. Ralph Regula, a Representative in Congress from the State of Ohio, statement	740
H.R. 1744:	
U.S. International Trade Commission	742
American Car Rental Association, statement	744
Hon. Fortney H. (Pete) Stark, a Representative in Congress from the State of California, letter	745
H.R. 1888:	
Department of Commerce	746
U.S. International Trade Commission	746
H.R. 1890:	
Department of Commerce	754
U.S. International Trade Commission	754
Hon. Jack Edwards, a Representative in Congress from the State of Alabama, statement	757
H.R. 1898:	
Department of Agriculture	758
U.S. International Trade Commission	758
La Choy Food Products, Division of Beatrice Foods Co., John G. Milliken and Paul Bousquet, joint statement	761
National Council for United States-China Trade, Roger W. Sullivan, letter	762
H.R. 1908:	
Department of Agriculture	763
U.S. International Trade Commission	763
Association of Food Industries, Inc., Richard J. Sullivan, letter	771
National Grange, Edward Andersen, letter	771
H.R. 1910:	
Department of Commerce	773
Automotive Service Industry Association, Gregory Billups, statement	773
Elbe Products, Inc., Robert B. Silverman, statement	774

	Page
H.R. 1910—Continued	
Industrial Fabrics Association International, Fred E. Magenheimer, letter	782
United Rubber, Cork, Linoleum & Plastic Workers of America, Milan Stone, statement	783
Wallcovering Manufacturers Association, statement	784
H.R. 1933:	
Department of the Treasury	787
Department of Commerce	787
Hon. Richard A. Gephardt, a Representative in Congress from the State of Missouri, letter	788
H.R. 1938:	
Department of Commerce	789
U.S. International Trade Commission	789
Magid Glove & Safety Manufacturing Co., Sheldon Cohen, letter	795
H.R. 1948:	
U.S. International Trade Commission	797
American Association of Exporters and Importers, Eugene J. Milosh, letter	799
Journal of Commerce, Eric Ridder, statement	799
H.R. 1951:	
Department of Commerce	802
U.S. International Trade Commission	802
H.R. 1953:	
U.S. Trade Representative	806
U.S. International Trade Commission	808
EM Chemicals, Beth C. Ring, statement	812
Hon. Fortney H. (Pete) Stark, a Representative in Congress from the State of California, letter	816
H.R. 1967:	
Department of Commerce	817
U.S. International Trade Commission	817
Schuylkill Metals Corp., Earl B. Cornette, letter	821
H.R. 1986:	
Department of Commerce	822
U.S. International Trade Commission	822
Industrial Distributors Inc., Keystone Wausau Pipe & Supply Division, William A. Stack, letter	837
Landish Co., R. B. Steele, letter	837
H.R. 1995:	
Department of Commerce	839
U.S. International Trade Commission	839
Riker Laboratories, Inc., Minnesota Mining & Manufacturing Co., Ronald O. Baukol, statement	841
H.R. 2042:	
Department of Commerce	843
U.S. International Trade Commission	843
First Washington Net Factory, Inc., Carl Koring, letter	852
Hon. Bill Nichols, a Representative in Congress from the State of Alabama, letter	852
North Pacific Fishing Vessel Owners' Association, Richard J. Goldsmith, letter	852
Southeastern Fisheries Association, Inc., Eldon V. C. Greenberg, statement	853
Hon. Gerry E. Studds, a Representative in Congress from the State of Massachusetts, statement	854
H.R. 2113: (No reports or comments were received on this bill.)	
H.R. 2158:	
Department of Commerce	855
U.S. International Trade Commission	855
American Hoechst Corp., Karl A. Hochschwender, letter	859
Biddle Sawyer Corp., Siegel, Mandell & Davidson, letter	859
Ralph Wilson Plastics Co., statement	861
H.R. 2206:	
Department of Commerce	863
U.S. International Trade Commission	863
Hon. Andy Ireland, a Representative in Congress from the State of Florida, statement	866

Page

H.R. 2215:
Department of Commerce 868
H.R. 2221:
Department of Commerce 869
Diamond Shamrock Corp., Frank Hicks, statement 869
H.R. 2258:
Department of Commerce 870
H.R. 2259:
Department of Commerce 871
Kerley Industries, Inc., R. E. Ashcroft, letter 871
H.R. 2265:
Department of Commerce 873
U.S. International Trade Commission 873
H.R. 2270:
Department of Commerce 878
U.S. International Trade Commission 878
H.R. 2299: (No reports or comments were received on this bill.)
H.R. 2316:
Department of Commerce 884
U.S. International Trade Commission 884
H.R. 2320:
Department of Commerce 889
H.R. 2335:
Department of Commerce 890
BASF Wyandotte Corp., Robert G. Thoma, letter 890
H.R. 2336:
Department of Commerce 892
BASF Wyandotte Corp., Robert G. Thoma, letter 892
Battery Council International, Robert H. Wilbur, letter 893
H.R. 2381:
Department of Commerce 894
Sea-Land Industries, Inc., Charles I. Hiltzheimer, statement 894
H.R. 2502:
U.S. International Trade Commission 897
Libby, McNeill & Libby, Inc., Gordon D. James, letter 899
National Cattlemen's Association, Wm. J. Waldrip, letter 900
H.R. 2603:
Commission on Security and Cooperation in Europe, Hon. Dante B. Fascell, Chairman, letter 901
Hungarian Reformed Federation of America, Rev. Imre Bertalan, letter 902

CERTAIN TARIFF AND TRADE BILLS

WEDNESDAY, APRIL 27, 1983

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON TRADE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2 p.m., in room B-318, Rayburn House Office Building, the Hon. Sam M. Gibbons (chairman of the subcommittee) presiding.

[Press releases announcing the hearings follow:]

[Subcommittee on Trade press release No. 9, Monday, Apr. 11, 1983]

THE HONORABLE SAM M. GIBBONS (D-FLA.), CHAIRMAN, SUBCOMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES HEARINGS ON CERTAIN TARIFF AND TRADE BILLS, APRIL 27, 1983 AND MAY 5, 1983

The Honorable Sam M. Gibbons (D-Fla.), Chairman of the Subcommittee on Trade of the Committee on Ways and Means, U.S. House of Representatives, today announced that the Subcommittee will hold hearings on Wednesday, April 27, 1983, and, if necessary, on Thursday, May 5, 1983, on certain tariff and trade bills to provide permanent duty-free entry, duty reduction, temporary suspension of duty, classification change, duty increase, quantitative restriction, and other bills. These hearings will be held at 10:00 a.m. on April 27, and at 9:30 a.m. on May 5. The location of the hearings will be announced later.

Officials from interested executive branch agencies will be the first witnesses. Testimony will be received by the Subcommittee from interested private sector witnesses following the appearances of the executive branch witnesses.

The tariff and trade bills on which testimony will be received are listed below:

DUTY-FREE BILLS

H.R. 1423 (Mr. Badham): To provide duty-free entry of a pipe organ for the Crystal Cathedral of Garden Grove, CA.

H.R. 1583 (Mr. Schulze): To provide duty-free entry of warp knitting machines.

H.R. 1898 (Mr. Latta): To provide duty-free entry of water chestnuts and bamboo shoots.

H.R. 1933 (Mr. Gephardt): To provide duty-free entry for certain scientific equipment for us in the Ellis Fischel State Cancer Hospital in Columbia, MO.

H.R. 1953 (Mr. Stark): To provide duty-free entry of imported semiconductors.

DUTY REDUCTION BILLS

H.R. 1226 (Mr. Whitten, et al): To reduce temporarily the duty on certain disposable surgical drapes and sterile gowns.

H.R. 1967 (Mr. Frenzel): To provide for a five year extension of the duty reduction on certain unwrought lead.

H.R. 2042 (Mr. Studds): To permanently reduce the duty on certain fish-netting and fish-nets.

H.R. 2316 (Mr. Conable, et al): To reduce temporarily the duty on fancy and odd shaped watch crystals for a period of three years.

H.R. 2265 (Mr. Downey, et al): To provide for a temporary duty reduction on caffeine until the close of December 31, 1985.

DUTY SUSPENSION BILLS

H.R. 908 (Mr. Vander Jagt): To provide for a three year suspension of the duty on B-naphthol.

H.R. 1086 (Mr. Hartnett): To suspend the duty on certain menthol feedstocks until July 1, 1986.

H.R. 1410 (Mr. St Germain): To provide for a two year suspension of duty on parts of spindle motors suitable for computer memory disk drives.

H.R. 1620 (Mr. Pease): To extend the suspension of the duty on flat knitting machines for a period of 5 years until the close of June 30, 1988.

H.R. 1667 (Mr. Russo, et al): To suspend the duty on MXDA (meta-Xylene-Diamine) and 1,3-BAC (1,3-Bis[aminomethyl]cyclohexane) until the close of June 30, 1986.

H.R. 1888 (Mr. Jenkins): To extend the suspension of duty on crude feathers and down for a period of 5 years.

H.R. 1890 (Mr. Howard): To suspend the duty on synthetic rutile until the close of June 30, 1987.

H.R. 1951 (Mr. Ratchford): To suspend the duty on 4-Bis (a,a-dimethylbenzyl) diphenylamine until the close of June 30, 1986.

H.R. 1995 (Mr. Frenzel): To suspend the duty on flecainide acetate for a 2 year period.

H.R. 2206 (Mr. Ireland): To temporarily suspend the duty on unwrought alloys of cobalt until the close of June 30, 1986.

H.R. 2215 (Mr. Mollohan): To suspend the duty of certain nitrogenous chemical compounds until the close of June 30, 1986.

H.R. 2221 (Mr. Shelby): To suspend for a three year period the duty on 2-methyl,4-chlorophenol.

H.R. 2258 (Mr. Mollohan): To suspend the duty on certain benzoid chemicals until the close of June 30, 1986.

H.R. 2259 (Mr. Mollohan): To suspend the duty on certain surface active agents until the close of June 30, 1986.

H.R. 2320 (Mr. Edgar): To extend the suspension of duty on certain textile fabrics used in the manufacture of hovercraft skirts.

H.R. 2335 (Mr. Solomon): To suspend the duty on 2-(4-aminophenyl)-6-methylbenzothiazole-7-sulfonic acid until January 1, 1986.

H.R. 2336 (Mr. Solomon): To suspend the duty on 6-amino-1-naphthol-3-sulfonic acid until January 12, 1986.

CLASSIFICATION BILLS

H.R. 1624 (Mr. Stark): To amend the Tariff Schedules to provide clarification of the classification of cordage products of similar characteristics.

H.R. 1910 (Mr. Shannon, et al): To clarify the classification of textile fabrics, articles and materials, coated, filled, or laminated with rubber or plastics.

H.R. 1938 (Mr. Campbell): To clarify for duty purposes the distinction between dress gloves and work gloves.

H.R. 2270 (Mr. Garcia): To provide for uniform tariff treatment of pet toys.

DUTY INCREASE BILLS

H.R. 1146 (Mr. Panetta, et al): To increase the duty on imported roses during the periods of 11/01 - 5/31 and 6/01 - 10/31.

H.R. 1195 (Mr. Loeffler, et al): To increase the duty on wool from Argentina and Uruguay for a period of 1 year.

H.R. 1217 (Mr. Shelby): To increase the duty on honey.

H.R. 1318 (Mr. Davis): To increase the duty on copper, copper ores, materials, alloys and articles, and amend the Trade Act of 1974 to identify certain items as being import sensitive.

H.R. 2158 (Mr. Moore): To increase the duty on melamine.

QUANTITATIVE RESTRICTION BILLS

H.R. 1319 (Mr. Davis): To estabish limits on iron ore imports and steel mill products

OTHER BILLS

H.R. 191 (Mrs. Holt): Exempt certain charter boats in the U.S. Virgin Islands from entry requirements of the customs laws.

H.R. 657 (Mr. Perkins): Amend the Foreign Trade Zone Act to exempt bicycle component parts, not exported, from the exemption from the customs laws otherwise available to merchandise in foreign trade zones.

H.R. 717 (Mr. Wright): Amend the Foreign Trade Zone Act to provide that certain property held in foreign-trade zones shall be exempt from state and local ad valorem taxation.

H.R. 1740 (Mr. Regula): Authorize the President to impose a tariff surcharge on the products of certain countries to offset the expense of providing U.S. defense assistance to such countries.

H.R. 1744 (Mr. Stark): Amend the Tariff Act of 1930 to prevent the exportation or importation of vehicles stolen or whose identification number has been removed.

H.R. 1908 (Mr. Schulze): Requires the English marking of the country of origin on cans of imported mushrooms.

H.R. 1948 (Mr. Pease, et al): Amend the Tariff Act of 1930 regarding the public disclosure of certain manifest information.

H.R. 1986 (Mr. Archer): Amend the Tariff Act of 1930 regarding the country of origin markings requirements for certain imported pipe and pipe fittings.

H.R. 2113 (Mr. Akaka): Amend the Agricultural Adjustment Act to require that imports of fresh ginger root meet all the requirements imposed on domestic fresh ginger root.

H.R. 2381 (Mr. Snyder): Amend the Tariff Act of 1930 to exempt from duties, equipment and repairs to certain vessels, and for other purposes.

H.R. 2603 (Mr. Gibbons, et al): Provide Most Favored Nation treatment to the Hungarian People's Republic for a five year period.

In view of the number of bills to be reviewed and the limited time available, witnesses are requested to briefly summarize their written statements. The full statement will be included in the printed record.

DETAILS FOR SUBMISSION OF REQUEST TO BE HEARD

Requests to be heard must be made by telephone to Harriett Lawler [telephone (202) 225-3672] by the close of business Thursday, April 21, 1983. The request should be followed by a formal written request addressed to John J. Salmon, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515.

In order to assure the most productive use of the limited amount of time available to question hearing witnesses, witnesses scheduled to appear before the Subcommittee are required to submit 100 copies of their prepared statements to the full Committee office, Room 1102 Longworth House Office Building, at least 24 hours in advance of their scheduled appearances. Failure to do so may require that a witness be denied the opportunity to testify in person because of the large number of bills involved.

Each statement to be presented to the Subcommittee or any written statement submitted for the record must contain the following information:

1. The name, full address, and capacity in which the witness will appear (as well as a telephone number where he or his designated representative may be reached);
2. A list of any clients or persons, or any organization for whom the witness appears; and
3. A topical outline or summary of the comments and recommendations in the full statement.

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE

Persons submitting a written statement in lieu of a personal appearance should submit six (6) copies of their statement by the close of business Thurday, May 12, 1983, to John J. Salmon, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements for the record of the printed hearing wish to have their statement distributed to the press and the interested public, they may provide 50 additional copies during the course of the public hearing.

[Subcommittee on Trade press release No. 10, Thursday, Apr. 21, 1983]

THE HONORABLE SAM M. GIBBONS (D-FLA.), CHAIRMAN, SUBCOMMITTEE ON TRADE, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES ADDITIONAL INFORMATION ON HEARINGS PREVIOUSLY SCHEDULED ON MISCELLANEOUS TARIFF AND TRADE BILLS

The Honorable Sam M. Gibbons (D-Fla.), Chairman of the Subcommittee on Trade of the Committee on Ways and Means, U.S. House of Representatives, today announced that the Subcommittee hearings of April 27, 1983, will begin at 2:00 p.m. rather than at 10:00 a.m. as previously announced (press release No. 9, dated April 11, 1983). He further announced that the Subcommittee will consider two bills, in addition to the previously published list, at its hearings on April 27, May 5, and, if necessary, on Tuesday, May 10, 1983, on certain tariff and trade bills to provide permanent duty-free entry, duty reduction, temporary suspension of duty, classification change, duty increase, quantitative restriction, and other bills. He also announced that, if necessary, additional hearings on the tariff and trade bills will be held Tuesday, May 10, 1983, beginning at 9:30 a.m. The hearings will be held in Room B-318 of the Rayburn House Office Building each day.

The two additional bills are listed below:

DUTY SUSPENSION BILL

H.R. 2502 (Mr. Russo): To suspend the duty on canned corned beef for a period of three years beginning on October 30, 1983.

OTHER BILL

H.R. 2299 (Mr. Hall, et al): To provide for the enforcement of an arrangement between the United States and the Commission of the European Communities concerning imports of steel pipe and tube products.

* * * * * * *

The other bills to be heard on April 27, May 5, and May 10, 1983, are listed in the Subcommittee press release dated April 11, 1983. The bill introduced by Mr. Gibbons, et al, and listed as the last bill on page 3 of our press release dated April 11, has been assigned number H.R. 2603. Bill number H.R. 2236 listed in that same press release should have been listed as H.R. 2336.

In view of the short notice of the addition of these bills to the agenda for April 27 and May 5, Administration agencies be asked to submit written comments.

It will be necessary for witnesses to summarize briefly their written statements. The full statement will be included in the printed record.

Although the cutoff date for requests to be heard, as announced in press release No. 9, is the close of business on April 21, 1983, the Subcommittee will make every effort to accommodate witnesses on testimony applicable to the two additional bills. Requests to be heard on these two bills should be made as soon as possible by telephone to Harriett Lawler [telephone (202)225-3627].

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE

Persons submitting a written statement in lieu of a personal appearance should submit six (6) copies of their statement by the close of business Tuesday, May 17, 1983, to John J. Salmon, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements for the record of the printed hearing wish to have their statement distributed to the press and the interested public, they may provide 50 additional copies during the course of the public hearing.

Chairman GIBBONS. Good afternoon, ladies and gentlemen.

This is a meeting of the Trade Subcommittee of the Ways and Means Committee. I would ask that all persons please take their seats as rapidly as they can. The purpose of this hearing is as announced by the Trade Subcommittee in its press releases of April 11 and April 12, 1983. It is to hear testimony from the administration and private sector on some 50 miscellaneous tariff and trade bills.

Other hearing dates in which we will hear future testimony have been announced as May 5 of this year at 9:30 a.m., and May 10 of this year, at 9:30 a.m., if necessary. Both hearings are scheduled to be in room B-318 of the Rayburn House Office Building.

In today's hearings we will hear the administration's testimony on these bills, following which we will hear from the private sector on the following bills, in this order: H.R. 2299, which deals with matters concerning imports of steel pipe and tube products from the European community; H.R. 1226, concerning the temporary duty reduction on surgical drapes and sterile gowns; H.R. 2265, which deals with a temporary duty reduction on caffeine; and H.R. 1146, concerning a duty increase on imported roses.

Testimony on the remaining bills from the private sector will be heard on May 5 and May 10, generally in the order they appear in the press releases of April 11 and April 21.

We have invited the International Trade Commission to be represented at the witness table in a supporting role to help with questions and data. In the interest of time, if the administration wishes, they may identify those bills with which they have no objection, and then limit their comments to the bills which require some elaboration or those which they oppose.

Is this satisfactory with the administration?

Mr. MILLER. Yes, Mr. Chairman.

Chairman GIBBONS. Fine. We will proceed through the bills in the order of our press release of April 11 and April 21. If the administration witnesses are ready and the ITC representative is ready, we will proceed.

Let the Chair announce for those who are not familiar with this proceeding that these are relatively small and noncontroversial tariff bills. The word "relative" is always a very relative matter, and some of these bills are neither small nor noncontroversial, but we have picked them out. We will move as rapidly as possible.

I have stated prior to this time that I do not expect to send any bill to the Senate unless there is a Senate cosponsor of an identical bill on the Senate side. I am taking this position to save everybody a vast amount of trouble. If a bill is worthwhile, there must be at least one Senator who will introduce it. If it is not, it is not going to pass anyway, and we can all save a lot of time by just not taking it up.

On the other hand, if any member really has a bill they are terribly interested in, and they will come to me personally and ask me to take it up, I will. However, a lot of these bills are very insignificant bills, and there really is no support for them. If a bill does not have support, we are going to eliminate it in this process.

I have found from past experience that when a bill gets over to the Senate and there is no Senate sponsor on a bill like this, it not only holds up that bill, but it holds up all the other bills which will be a part of the omnibus tariff bill package. I am assuming that we are going to have to have a package of these bills this year.

The first bill we will take up is H.R. 1423, by Mr. Badham, and we may proceed.

STATEMENT OF BRUCE JON MILLER, DIRECTOR, CONSUMER GOODS AND AUTOMOTIVE INDUSTRIES DIVISION, INTERNATIONAL TRADE ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE, ACCOMPANIED BY BARBARA A. STEINBOCK AND JOSEPH SPETRINI, U.S. DEPARTMENT OF COMMERCE; LEO WEBB, OFFICE OF TARIFF AFFAIRS, U.S. INTERNATIONAL TRADE COMMISSION; SANDY KRISTOFF, INTERNATIONAL ECONOMIST, U.S. TRADE REPRESENTATIVE; ARTHUR I. RETTINGER, GENERAL ATTORNEY, OFFICE OF THE CHIEF COUNSEL, U.S. CUSTOMS SERVICE; CAROL HARVEY, DEPUTY DIRECTOR FOR ANALYSIS, DAIRY, LIVESTOCK, AND POULTRY DIVISION, FOREIGN AGRICULTURAL SERVICE, U.S. DEPARTMENT OF AGRICULTURE, AND GILBERT SINDELAR, DIRECTOR, HORTICULTURAL AND TROPICAL PRODUCTS DIVISION, FOREIGN AGRICULTURAL SERVICE

Mr. MILLER. Mr. Chairman, I might for the benefit of the committee and the audience introduce myself and the members of the panel here. I am Bruce Jon Miller of the U.S. Department of Commerce. I am accompanied by Sandy Kristoff, U.S. Trade Representative's Office, Mr. Gil Sindelar of Agriculture, and we have here also from the U.S. International Trade Commission Mr. Leo Webb.

Also, if I might make a general comment regarding the effective date of the bills, the administration would request that the effective date on all bills that are not continuations of present duty changes be no sooner than 15 days from the date of enactment. Providing an effective date 15 days after enactment will enable the U.S. Customs Service to notify its field offices and importers.

As you indicated and as I agreed, on those bills for which we have no objection I will just note no objection unless we are asked to explain our position or answer questions.

Chairman GIBBONS. Thank you.

Mr. MILLER. So, returning, then, Mr. Chairman, to H.R. 1423, the administration has no objection.

Chairman GIBBONS. Let us proceed through the list.

Mr. MILLER. H.R. 1583, no objection. H.R. 1898 I am going to ask Mr. Sindelar to address.

Mr. SINDELAR. The Department of Agriculture is opposed to the enactment of this legislation on the grounds that the products named are currently permitted duty-free treatment under a temporary duty suspension. The Department would have no objection, however, to an extension of the present duty suspension scheduled to expire on June 30, 1983.

Chairman GIBBONS. Are you saying that you will take an extension but not a permanent reduction?

Mr. SINDELAR. That is correct, sir.

Chairman GIBBONS. Where do these products come from?

Mr. SINDELAR. Taiwan and China are the two principal suppliers.

Chairman GIBBONS. Go right ahead.

Mr. MILLER. Thank you, Mr. Chairman.

H.R. 1933, I am going to ask Mr. Art Rettinger of the Customs Service to address this bill.

Chairman GIBBONS. That is the cancer bill?

Mr. RETTINGER. Right, duty-free treatment for scientific equipment. This bill has come up—it is the third time it has been up. It is a private relief bill to allow for duty-free treatment that would have been granted to two entries for the Ellis Fisher State Cancer Hospital, but, due to some administrative errors on the part of the importer, were not granted. Normally, the Department of Treasury does not favor private relief bills, but it would have no objection to this one.

Chairman GIBBONS. That is a yes and no answer, is it?

Mr. RETTINGER. There is no objection to the passage of this bill.

Chairman GIBBONS. OK, fine. Go right ahead. H.R. 1953.

Mr. MILLER. Mr. Chairman, the administration is opposed to enactment of H.R. 1953. Some items subject to this legislation are produced in the United States. Domestic industries producing these items face strong foreign competition. Reducing the duty on these items would provide an unnecessary advantage for foreign producers.

We also oppose granting unilateral permanent tariff concessions. We believe that tariff reductions on these items should be the result of mutual concessions granted by the primary suppliers of the products. Such reductions would offer improved market opportunities for U.S. manufacturers. We would have no objection to legislation granting the President authority to extend duty-free treatment for up to 5 years, if after receiving advice from the Trade Policy Committee he deems such reductions to be in the national interest. The President also should be given authority to suspend such duty-free treatment at any time during that period, if he feels duty-free status for these items is no longer in the national interest.

We are willing to work with the sponsor to identify the appropriate product coverage for such legislation.

Chairman GIBBONS. Well, fine. Go right ahead.

Mr. MILLER. OK, Mr. Chairman.

On H.R. 1226, the administration has no objection to the enactment of this legislation. I understand, though, that the committee wants me to make an additional remark on this legislation.

Chairman GIBBONS. We have some witnesses scheduled to testify on this bill so we may have you provide additional comments a little later on. I presume the administration doesn't have any objection to that?

Mr. MILLER. That is correct, sir.

Chairman GIBBONS. OK.

Mr. MILLER. H.R. 1967, the administration has no objection.

Chairman GIBBONS. Mr. Frenzel is going to be real happy about that. Go right ahead. H.R. 2042.

Mr. MILLER. The administration is opposed to enactment of H.R. 2042. The effect of H.R. 2042 is to enact immediately the remaining part of a 60-percent tariff cut made during the Tokyo round of multilateral trade negotiations. This 60-percent cut is currently scheduled to be staged over several years and to reach 17 percent on January 1, 1989.

This staging was designed to give the fishnet and netting industry the opportunity to adjust to import competition before the full effects of the 60-percent tariff reduction are completed. We believe

that the domestic industry is moving quickly to adjust to the changed competitive position. A full 60-percent duty reduction now would undermine the domestic industry's serious efforts to adjust to import competition and to enter the market successfully with its new and improved products.

Chairman GIBBONS. Thank you.

Mr. FRENZEL. Mr. Chairman?

Chairman GIBBONS. Yes, sir. Any time anyone has a question, please speak up.

Mr. FRENZEL. Is there not an allegation by the fishing people that they cannot get what they want domestically, certain types, sizes, grades, or whatever?

Mr. MILLER. Yes, Mr. Frenzel, that has been an allegation in the past.

Mr. FRENZEL. Did you investigate that?

Mr. MILLER. We have.

Mr. FRENZEL. What did you find out?

Mr. MILLER. We have information now that one company in a joint venture with a Japanese net producing firm has started producing and shipping high quality salmon gill netting. The USITC report indicates that the Japanese firm would be in a position to phase out its exports to the United States if the joint venture successfully produces the crystal netting in the United States.

We also know of another firm, one of the largest domestic producers of fish netting, which is developing a new yarn competitive with that used in imported crystal netting. We believe that this new yarn is currently being tested, and that it can be produced in large quantities, in fact, several times more than that needed for total domestic consumption of salmon gill fish netting.

Mr. FRENZEL. You concluded there either was or will be sufficient availabilities of the product?

Mr. MILLER. We have concluded, sir, that the domestic industry is developing products, and that there are some products available now, and that the full staging is necessary to permit this adjustment process to continue.

Mr. FRENZEL. Thank you. Mr. Chairman, I assume that the proponents of these bills will be in at a later date.

Chairman GIBBONS. Yes, sir.

Mr. FRENZEL. Thank you very much.

Mr. HANCE. Mr. Chairman, I have a question in regard to this bill. This is the same bill that we had last year, that the two of us worked on and worked on and finally thought we had a compromise worked out in the House. And when the bill got to the Senate they worked out a different compromise. The same people were working out separate compromises both places. I would think a word to the wise would be that they need to get all of their ducks or fish or whatever lined up and appropriately so before they come back to us, because we spent a long time last December just messing with this thing, a lot longer than we should have.

Chairman GIBBONS. Yes, I remember. Any other comments?

[No response.]

Chairman GIBBONS. OK, H.R. 2316.

Mr. MILLER. Mr. Chairman, we have no objection to H.R. 2316. H.R. 2265, no objection.

I believe now, Mr. Chairman, we are in the duty suspension bills.

Chairman GIBBONS. Yes, sir.

Mr. MILLER. H.R. 908, no objection.

H.R. 1086, no objection.

H.R. 1410, the administration, Mr. Chairman, opposes enactment of H.R. 1410. H.R. 1410 would require the U.S. Customs Service to administer an end-use provision. This would entail an unacceptable administrative burden on Customs. Simply removing the end use criteria would broaden the coverage of the bill and would allow duty free importation of products that are directly competitive with those produced in the United States.

While the intent of the bill was to aid a U.S. producer who uses a patented, imported part, we have been unable to devise language which would permit duty-free treatment for the patented part but which would not remove duties on items produced in the United States.

Chairman GIBBONS. Any questions?

Mr. PEASE. Mr. Chairman, which bill are we on right now?

Chairman GIBBONS. We are on page 2, H.R. 1410. It is tab 13 in the briefing book.

Mr. PEASE. Thank you.

Chairman GIBBONS. Go right ahead.

Mr. MILLER. Thank you, Mr. Chairman.

H.R. 1620, no objection.

H.R. 1667, no objection.

H.R. 1888, to extend the suspension of duty on goose feathers and down for a period of 5 years.

Chairman GIBBONS. That is the bill we had planned to attack the income withholding tax. You are not going to oppose that, are you? [General laughter.]

We are going to use that as the vehicle to send the President the repeal of the withholding on interest and dividends. [General laughter.]

We thought that goose feathers and down would be an appropriate place to put that amendment. [General laughter.]

Mr. MILLER. Actually, I was going to ask your indulgence to skip over this bill momentarily.

Chairman GIBBONS. Good. We must have a vehicle. Go right ahead.

Mr. MILLER. Actually, the U.S. Department of Agriculture is going to address that, and their representative is not here yet, so if we could just come back.

Chairman GIBBONS. Don't tell me you are going to deny this bill its place in history. OK, we will skip over it and come back to it. All right, let's continue with H.R. 1890.

Mr. MILLER. H.R. 1890, this would suspend the duty on synthetic rutile. The administration, Mr. Chairman, opposes enactment of H.R. 1890. The duty on synthetic rutile was originally suspended at a time when there was no domestic production, and the world supply could not equal demand. We supported subsequent suspensions because of the absence or inadequacy of domestic production. Such circumstances no longer exist. The amount available domestically for production and sales exceeds the total amount of synthetic

rutile imported in 1982, and approximates the amount imported in 1981.

Accordingly, we believe that the current worldwide surplus of synthetic rutile combined with a reliable and sufficient domestic source of synthetic rutile no longer justifies suspension of duty.

Chairman GIBBONS. Questions?

[No response.]

Chairman GIBBONS. OK, H.R. 1951.

Mr. MILLER. No objection, Mr. Chairman.

Chairman GIBBONS. Go right ahead.

Mr. MILLER. H.R. 1995, no objection.

H.R. 2206, no objection.

H.R. 2215, no objection.

H.R. 2221, no objection.

H.R. 2258, no objection.

H.R. 2259, Mr. Chairman, the administration opposes enactment of H.R. 2259. We understand that the bill was introduced on the belief that there are no domestic producers of these chemicals. However, one company, Kerley Industries, located in Arizona, will bring a new plant on stream in May 1983 and will have the capability of producing each of these chemicals. The plant's capacity is sufficient to meet U.S. demand.

Chairman GIBBONS. Any questions?

[No response.]

Chairman GIBBONS. OK, H.R. 2320.

Mr. MILLER. No objection, Mr. Chairman.

H.R. 2335, no objection.

H.R. 2336, no objection.

Mr. Chairman, I think that brings us now to classification bills.

Chairman GIBBONS. What about H.R. 2502, Mr. Russo's bill which would suspend the duty on canned corned beef? Is that an agriculture bill?

Mr. MILLER. If I could ask Mr. Sindelar to address that.

Mr. SINDELAR. We are deferring to USTR on this issue.

Chairman GIBBONS. You are going to defer to the USTR on this? Good. Please go ahead.

Ms. KRISTOFF. We are opposed to this as presently drafted. We are in the process of working with the sponsor's office to devise mutually acceptable language, and we expect to have proposed revisions very shortly.

Mr. FRENZEL. Can you tell us what the problem is?

Ms. KRISTOFF. When we terminated the United States-Argentine hide agreement, the tariff on canned corned beef was scheduled to go back to 7.5 percent, October 30, 1983. In our recommendation to the Congress on the termination of that agreement, we suggested that legislation be introduced which would permit the President to maintain or reduce the 3 percent duty provided that he could make a determination that the United States had obtained some economic benefits in return for the maintenance of this reduced duty from Brazil.

The legislation as currently drafted provides for a 3-year duty suspension, and does not include any authority for the President to attempt——

Mr. FRENZEL. How much money are we talking about?

Ms. KRISTOFF. I do not have that figure in front of me. The benefits that would accrue to Brazil are substantial, however.

Mr. FRENZEL. Well, frequently we find USTR trying to trade off $1.25, and it is a de minimis operation. So I think the committee will need to have that information before it can make a decision.

Ms. KRISTOFF. I would be more than happy to submit facts and figures to you in written testimony subsequently.

Mr. FRENZEL. Pardon me?

Ms. KRISTOFF. I would be more than happy to submit to the committee——

Mr. FRENZEL. We would be more than happy to have it.

[The following was subsequently received:]

U.S. TRADE REPRESENTATIVE,
Washington, May 16, 1983.

Hon. DAN ROSTENKOWSKI,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, D.C.

DEAR DAN: During hearings before the House Ways and Means Trade Subcommittee on April 27 on H.R. 2502, a bill "to suspend . . . the duty on canned corned beef," the Administration was asked to submit additional information regarding the U.S. market for canned corned beef.

Currently there is virtually no U.S. production of canned corned beef, and U.S. consumption is dependent upon foreign sources. Over 99 percent of U.S. imports of canned corned beef originate in South America, particularly Brazil, Argentina, and Uruguay. Beef cattle raised in these countries are primarily grass fed animals which are particularly suitable for the production of canned corned beef.

While the United States does produce a cured beef product, cured beef brisket, it is not a substitute for canned corned beef. Both the taste and end use of the two products are different. Canned corned beef, a saltier product, is usually used as an ingredient for stews, hash, and sandwiches. Beef brisket is used like fresh meat as a main entree. Canned beef is already cooked, while a cured beef brisket is not. The brisket is vacuum-packed and needs refrigeration.

Over the three year period 1980–1982, average yearly U.S. imports of canned corned beef were valued at $93 million. Brazil accounted for 59 percent, Argentina for 36 percent, and Uruguay for 4 percent of this total.

Argentina and Uruguay are currently eligible to receive duty-free treatment on this product under the GSP program. Brazil is excluded from such treatment because it has exceeded the competitive need criteria. We estimate that the amount of revenue which could be expected to be lost if this bill is enacted is approximately $4 million per year.

The Administration opposes H.R. 2502 as drafted. The United States has specific objectives in negotiations with the Government of Brazil which a retention or reduction of the U.S. tariff on canned corned beef could help us attain.

The Government of Brazil has indicated that it is interested in obtaining a bound U.S. concession on canned corned beef, and is willing to discuss this in relation to the ethyl alcohol compensation case. Consultations with the Government of Brazil on this issue are scheduled for May 23–24, 1983. My Office has discussed this issue with members of the sponsor's and the Subcommittee's staffs. We will continue to keep them informed of the progress of these discussions.

If I can be of any further assistance in this matter please let me know.

Very truly yours,

WILLIAM E. BROCK.

Mr. FRENZEL. Is there any more than one marketer in the United States?

Ms. KRISTOFF. To our knowledge this product is marketed by firms of the Cooked and Canned Meat Importers Association—24 members—and firms of the National Meat Canners Association—37 members.

Mr. FRENZEL. Thank you very much.

Chairman GIBBONS. Mr. Russo does not take lightly any opposition to his bills, so you had better work with him. All right. Let us proceed into the classification bills, H.R. 1624.

Mr. MILLER. Yes, Mr. Chairman. The administration opposes enactment of H.R. 1624. The administrative procedures exist through which the interested parties can seek reclassification of these products or products made of plastic classified in schedule 7, to a textile product in schedule 3.

In fact, we understand that these procedures are currently being utilized. Current classification practices are consistent with international practice, including classification of products for the multifiber arrangement. A classification change under the present circumstances would subject the United States to claims for compensation or to retaliation by affected countries. We believe that it would be inappropriate to jeopardize our trading interests prior to a Customs decision that reclassification is appropriate.

Chairman GIBBONS. All right. Questions?

[No response.]

Chairman GIBBONS. H.R. 1919.

Mr. MILLER. Mr. Chairman, no objection.

H.R. 1938, Mr. Chairman, the bill is unacceptable to the administration as written. We are willing to work with the interested parties to develop legislative language which is acceptable.

While the bill is unacceptable in its present form, we are disturbed by the apparent tariff avoidance practices being utilized. Thus we will work to develop a solution which results in tariff avoidance problem in work gloves without affecting the tariff structure for other gloves without creating new tariff anomalies, and which minimizes the amount of legitimate compensation which might be claimed by affected trading partners.

Chairman GIBBONS. Are there any questions about this?

Mr. FRENZEL. I somehow lost the bill here. What did you say about 1624?

Mr. MILLER. We are opposed to enactment of 1624.

Mr. FRENZEL. I am sorry to take the committee's time, but could you tell me why you are opposing that one?

Mr. MILLER. At this time, we believe that there are available to the interested parties an appropriate administrative remedy, that is, a Customs reclassification request which is, in fact, in process of being reviewed, and we believe that that procedure should be used.

Mr. FRENZEL. So this is not necessary unless that procedure fails. And could you tell me about 1910?

Chairman GIBBONS. They have no objective to H.R. 1910.

Mr. MILLER. This is the coated fabric bill.

Mr. FRENZEL. And you supported that?

Mr. MILLER. Yes, no objection.

Mr. FRENZEL. Thank you very much.

I am sorry, Mr. Chairman.

Chairman GIBBONS. That is alright.

Mr. SCHULZE. Mr. Chairman, if I may, on 1938.

Chairman GIBBONS. 1938?

Mr. SCHULZE. Perhaps you would give me a little better understanding of the problem. We are having trouble defining work gloves versus dress gloves, or what?

Mr. MILLER. The nature of the problem has to do with previous Customs rulings and court decisions which deal with the construction of various gloves, not that I would wear something like this.

Mr. SCHULZE. If you were a waiter, you might. [General laughter.]

But previous Customs rulings have led to classification of gloves in accordance with whether or not they have something called a fourchette.

Mr. FRENZEL. Is it fair to say that there is a loophole that the proferred legislation closed in, and a few dozen other?

Mr. MILLER. Well, it is too broadly written, and it affects more products than we feel are necessary.

Mr. FRENZEL. You are working with the author?

Mr. MILLER. Yes; we have indicated a willingness to do so and to reach some sort of a solution which can accommodate the interest I noted in my statement.

Mr. SCHULZE. It seems to be a matter of terminology. Is that correct? Or adequate descriptive terminology. Thank you.

Chairman GIBBONS. Alright. H.R. 2270.

Mr. MILLER. No objection.

Chairman GIBBONS. Let us move on to duty increase bills. The first bill is H.R. 1146.

Mr. MILLER. Yes, Mr. Chairman. I am going to ask the Department of Agriculture to address H.R. 1146. I have also been informed that their witness for H.R. 1888 is also here, and with your indulgence, they might address both bills.

Chairman GIBBONS. Well, just one at a time. Let's take up H.R. 1146 on roses first. Then we can go back to H.R. 1888.

Mr. SINDELAR. The Department is opposed to the enactment of this bill. This bill would provide for increased duties on cut roses above 8 percent negotiated back in 1979 in the MTN's. Any unilateral action resulting from an increased duty means that the United States would owe compensation for removal of this international commitment to countries supplying roses, and would be obliged to adjust our duties on other products or risk the possibility of retaliatory action against U.S. exports.

There is no legislative authority from the administration to make compensatory tariff adjustments.

Mr. FRENZEL. Is this the so-called bound duty?

Mr. SINDELAR. Yes.

Chairman GIBBONS. All right. Now, for administrative purposes, we will go back to the bill we skipped over, which for members' information is tab 16, or page 2 in the index, H.R. 1888. We have another representative of the Department of Agriculture. If you would identify yourself. This is regarding H.R. 1888, Mr. Jenkins' historic bill on crude feathers and down.

Ms. HARVEY. I am Carol Harvey from the Department of Agriculture.

Chairman GIBBONS. Go right ahead, Ms. Harvey, but please get a little closer to the microphone.

Ms. HARVEY. We have not been able to collect the data that I think is sufficient to take a position on that bill at this point and would like an extension. If you are interested in just straight import data, I can do that, but I think if you have specific ques-

tions perhaps it would be better that you give them to us, and then we will respond to those. The Department does not normally keep a lot of data on domestic production, so that we will have to go out and get it.

Chairman GIBBONS. Do members of the committee have questions about this?

Mr. FRENZEL. Yes; we passed this bill a while back, what is it, 3 years ago.

Chairman GIBBONS. Or one just like it, or very similar.

Mr. FRENZEL. At any rate, it is an extension of a bill. Did the previous bills require you to keep statistics?

Ms. HARVEY. Not that I am aware of.

Mr. FRENZEL. So the current bill is not an extension. It also gives you some additional duty?

Ms. HARVEY. The current bill as I understand, is to continue a duty suspension.

Mr. FRENZEL. What was your complaint with it?

Ms. HARVEY. We do not have a complaint. I am saying we do not have a position at this point because we do not feel we have enough data to take a position.

Mr. FRENZEL. I am sorry.

Ms. HARVEY. So we would like enough time to do that, and if you have some specific questions that you want answered, please let us know what they are, and we will try to get that, too.

Mr. SCHULZE. Have there been any problems or complaints from domestic producers?

Chairman GIBBONS. There has been nothing coordinated that I am aware of. At this point I can not say that there has been any problem or complaints from the domestic producers.

Mr. SCHULZE. Well, we can wait.

Chairman GIBBONS. This bill may be denied its place in history. Go right ahead, then, Please work with Mr. Jenkins, because I am sure he is interested in the passage of this bill. It is a continuation of current practice, and we usually continue those, so unless you holler real loud, we probably will continue it.

OK, let us go to Mr. Loeffler's bill on page 4, tab 3, H.R. 1195.

Mr. MILLER. Mr. Chairman, I am also going to ask the Department of Agriculture to address that bill.

Chairman GIBBONS. All right.

Ms. HARVEY. The Department, I believe, has sent up a report to you indicating that we oppose it for two reasons, one being that the bill seeks to raise the duty for only two countries rather than doing it on an MFN basis, which is traditional practice, and the way to observe your GATT obligations. It raises it only for Argentina and Uruguay and not for New Zealand, which is the largest supplier of that type of wool.

Second, it is my understanding that we do not have the ability to compensate for such a duty increase at this time, so that even if we were to raise it, we would have no way to go out and do anything about it. The duty that is proposed is a 10-percent duty, while the current duty is a specific duty which can at times be less than the proposed ad valorem duty—note also that the duty is currently suspended altogether—so we would also be breaking our binding.

Mr. FRENZEL. What is the proposed duty in the bill, 10 percent ad valorem?

Ms. HARVEY. Ten percent ad valorem.

Mr. FRENZEL. And is there a countervailing case pending in this one?

Ms. HARVEY. I am not aware that there is.[1]

Chairman GIBBONS. Any other questions?

[No response.]

Mr. FRENZEL. All right. We will go to honey, H.R. 1217.

Mr. MILLER. Mr. Sindelar of the Agriculture Department, Mr. Chairman, will address this bill.

Mr. SINDELAR. The Department again opposes this bill. The bill would provide relief from honey imports by increasing the duty. We believe that enactment of this bill would have international repercussions because the United States has granted a concession—actually, it was a binding of the duty—in the GATT.

Among the main suppliers in recent years have been Mexico, China, and Argentina. If this bill becomes law, the United States would be obligated to pay compensation by cutting import duties on other products having an equivalent trade value.

No legislative authority currently exists for the U.S. Government to make such duty reductions at this time. Therefore, the foreign governments could only withdraw concessions they have made on U.S. exports.

Mr. FRENZEL. Mr. Chairman.

Chairman GIBBONS. Mr. Frenzel.

Mr. FRENZEL. Do you have a support price on honey?

Mr. SINDELAR. Yes; there is.

Mr. FRENZEL. As I understand it, the Government buys most of the domestic honey.

Mr. SINDELAR. It buys a portion of it.

Mr. FRENZEL. Is that price higher than the market price?

Mr. SINDELAR. The support price has been higher than the market price.

Mr. FRENZEL. What is it today?

Mr. SINDELAR. Sir, I cannot give you that at the moment.

Mr. FRENZEL. Can you supply us some numbers on the relative market price—I mean on the market price and the support price?

Mr. SINDELAR. I do have some information now.

Mr. FRENZEL. Could you give it to us?

Mr. SINDELAR. In March the support price for the 1982 crop was 60.46 per pound; with the support price higher than the market price, 88.3 million pounds were put under the loan with the Commodity Credit Corporation in 1982.

Mr. FRENZEL. What happens to the honey that goes under loan? Do you store it?

Mr. SINDELAR. It is stored for a time.

Mr. FRENZEL. Is it stored with the producers or with you?

Mr. SINDELAR. About 45 million pounds of this year's crop may be forfeited to the CCC, the Commodity Credit Corporation.

Mr. FRENZEL. So you will own it?

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[1] There has in fact been a case pending and a final determination of subsidy has been made by the Commerce Department.

Mr. SINDELAR. Yes.

Mr. FRENZEL. And do you know what the market price is?

Mr. SINDELAR. It was slightly higher. I do not have the exact figure to compare it.

Mr. FRENZEL. So the cost was 61 cents or something?

Mr. SINDELAR. Yes.

Mr. FRENZEL. Thank you.

Chairman GIBBONS. Do we know why there is a surplus? Is it a chronic surplus or what?

Mr. SINDELAR. Well, there are some schools of thought on this. Some claim it is because of the high support price, plus the strength of the U.S. dollar that is attracting imports into this country. Those two combined I believe to be the major factors in upsetting the situation.

Mr. SCHULZE. Do we export any of that honey?

Mr. SINDELAR. To the best of my knowledge, not an appreciable amount.

Mr. SCHULZE. Are there markets available or is that because of the support price—it is too high?

Mr. SINDELAR. Our exports in the past have been about 9—well, recently we had 9.2 million pounds go into export, and domestic consumption would be about 250 million pounds.

Mr. SCHULZE. Do you have the figures on where those exports go?

Mr. SINDELAR. No, I do not. I can furnish those, if you wish.

Mr. SCHULZE. Thank you.

[The information follows:]

The top 10 foreign purchasers of U.S. honey in 1982 and the amounts exported are as follows:

Quantity in metric tons

Country:	
Germany (Federal Republic of)	938
Saudi Arabia	681
Netherlands	577
Japan	447
Canada	168
France	143
United Arab Emirates	135
Kuwait	106
Denmark	99
Hong Kong	98
Total U.S. honey exports, 1982:	
Quantity	3,871
Value	$6,360,528

Chairman GIBBONS. All right. We will next take up H.R. 1318.

Mr. MILLER. Mr. Chairman, the administration opposes enactment of H.R. 1318. Congress has provided administrative remedies in the Trade Act of 1974 for situations in which a domestic industry believes it is experiencing serious import injury or threat thereof. We believe these procedures, which involve a thorough investigation by the U.S. International Trade Commission, are the appropriate recourse for the copper industry.

This legislation would increase duties on products subject to prior concessions in international negotiations contrary to U.S. obligations under the general agreement on tariffs and trade. Any increase in the duties on these products could render this country

subject to claim for compensation or to retaliation by affected countries, thus disadvantaging other U.S. industries.

We believe it is inappropriate to jeopardize our trading interest in situations where relief has not been found to be warranted through established administrative procedures.

Chairman GIBBONS. Are there any questions?

[No response.]

Chairman GIBBONS. Let us take up H.R. 2158.

Mr. MILLER. Mr. Chairman, the administration is opposed to enactment of H.R. 2158, and I would note that the reasoning here is the same as that that I just——

Chairman GIBBONS. The same as above?

Mr. MILLER. The same as above, yes.

Chairman GIBBONS. All right. Does anyone have any questions?

Mr. HANCE. Mr. Chairman.

Chairman GIBBONS. Yes, sir.

Mr. HANCE. I am totally opposed to this bill. The effect of it would be to give one company a virtual monopoly on this market, and I think it would be very bad if we passed this piece of legislation. I think there are probably a lot of other people who are opposed to it also.

Chairman GIBBONS. All right, sir.

We will go now to the quantitative restrictions bill, H.R. 1319.

Mr. MILLER. Mr. Chairman, the administration is opposed to enactment of H.R. 1319, and the reasons are similar to those I have just announced.

Chairman GIBBONS. All right. Are there any questions about 1319?

[No response.]

Chairman GIBBONS. Let us go to the category of other bills, H.R. 191.

Mr. MILLER. Mr. Chairman, I am going to request that the Customs Service address this bill.

Chairman GIBBONS. All right. Customs Service?

Mr. RETTINGER. Yes, Mr. Chairman. I believe H.R. 191 has been replaced with H.R. 1684 which makes some very minor changes. Both of these bills would exempt charter boats of the U.S. Virgin Islands from having to clear customs upon return from excursions to the British Virgin Islands.

The Customs Service would have no objection and basically no position on this bill. It would not affect any duty of the United States, and it would not place any administrative burden on the U.S. Customs Service provided that certain language changes were made in the bill to comply with standard maritime language.

We would be happy to work with the committee to make those changes.

Chairman GIBBONS. Are these referring to small boats sailing between the British Virgin Islands and the American Virgin Islands? Is that all they are?

Mr. RETTINGER. That is to the best of my knowledge.

Chairman GIBBONS. Would we just want to exempt them?

Mr. RETTINGER. From having to clear customs upon their return from the Virgin Islands.

Mr. FRENZEL. Is that not a ferryboat ride?

Mr. RETTINGER. As a practical matter that is a foreign country. Right now they are required to clear customs, but even if any duties are due, they are not duties that accrue to the United States, as the Virgin Islands are outside the customs territory.

Mr. FRENZEL. So you are working with the author to straighten out the language?

Mr. RETTINGER. We have offered suggested language, and we would be happy to work with him to be sure that there would be no further difficulties.

Mr. FRENZEL. It is a her.

Mr. RETTINGER. I am sorry. H.R. 1634 is Mr. de Luga.

Mr. FRENZEL. What happened to Mrs. Holt?

Chairman GIBBONS. They are the same bill.

Mr. FRENZEL. We do not need to worry about somebody taking care of it. He will be all over us like a tent. [Laughter.]

Chairman GIBBONS. OK. Let us proceed on to other bills. H.R. 657.

Mr. MILLER. Mr. Chairman, the administration opposes enactment of H.R. 657. We oppose legislation which preempts established administrative procedures. An administrative mechanism already exists through which a pending petition to create a foreign trade zone utilizing bicycle components is being reviewed.

Congress has granted the Foreign Trade Zones Board the authority to consider the public interest when deciding whether to grant foreign trade zone status. Congress has granted the board sufficient authority to deny an application if it is not in the public interest or to impose restrictions on activities in the foreign trade zones.

As part of its review of the request for a foreign trade zone for bicycles, the Foreign Trade Zone staff has asked the Bureau of Industrial Economics in the Commerce Department to assess the potential impact of establishing a foreign trade zone on the domestic bicycle and bicycle parts industries and on the overall economic interest of the United States.

We note that enactment of this legislation establishes an unwise precedent which would only encourage other industries to seek congressional decisions regarding foreign trade zone applications rather than utilize the administrative mechanism already provided.

Chairman GIBBONS. Do we have any questions about H.R. 657?

[No response.]

Chairman GIBBONS. Let's go to H.R. 717.

Mr. MILLER. Mr. Chairman, the administration does not have a position on this bill at this time. We note that this legislation is not the normal miscellaneous tariff bill that we address in that it raises several substantive issues, including the role of the Congress in regulating foreign trade and the extent of the taxing power of the individual states.

These issues deserve careful examination. The legislation as proposed also raises a number of technical questions. These questions can be further addressed by the U.S. ITC representative if the committee desires. The Department's Foreign Trade Zone staff is also available to assist in clarifying technical issues.

Mr. FRENZEL. Is the current law that this property is taxable under State and local ad valorem taxes?

Mr. WEBB. Mr. Frenzel, Leo Webb, International Trade Commission.

It is our understanding that there have been certain requests, certain attempts by various jurisdictions to tax property in foreign trade zones. They have also attempted to tax the property in customs-bonded warehouses. That is a separate proposition. But the Supreme Court has ruled on that, and the Supreme Court has held that property in customs-bonded warehouses not to be subject to State and local taxation. The foreign trade zone issue has never come to the courts, at least to the Supreme Court.

Chairman GIBBONS. By analogy you would have to say that they are about the same.

Mr. WEBB. There is a good deal of analogy between the two, and we see a great deal of similarity. If the Congress intended that property in customs-bonded warehouses, which is what the court determined in *Xerox* v. *Harris County,* should be exempt, the same analogy would seem to apply to the foreign trade zone.

Mr. FRENZEL. This sounds like a great question for some other committee, Mr. Chairman. [Laughter.]

Chairman GIBBONS. All right. Let us take up H.R. 1740, stolen vehicles.

Mr. MILLER. Mr. Chairman, 1740——

Chairman GIBBONS. Excuse me. I am sorry. Go right ahead, sir. H.R. 1740.

Mr. MILLER. Mr. Chairman, the administration opposes enactment of H.R. 1740. We note that the imposition of a tariff surcharge would be contrary to U.S. international obligations and that such a surcharge would render this country subject to claim for compensation from the adverse impact of such a surcharge on their trade or to retaliation by affected countries, thus disadvantaging other U.S. industries.

Chairman GIBBONS. Does anyone have any questions about that?

Mr. PEASE. What if another country is disadvantaging us in its nontariff barrier policies? Would we be able to use this bill as a vehicle for equaling up the sides?

Mr. MILLER. I think, Mr. Pease, on the one hand the administration does pursue its rights under international agreements very diligently. I think also we should note that the President has made it clear that it is not necessarily the best approach to retaliate every time a foreign country does something or undertakes an act that we do not fully appreciate.

Mr. PEASE. I appreciate that clarification of the administration's policy. [Laughter.]

Chairman GIBBONS. All right. Let us go to H.R. 1744, concerned with the exportation and importation of stolen vehicles and vehicles with destroyed or tampered identification numbers.

Mr. MILLER. Mr. Chairman, I am going to ask Mr. Rettinger from the Customs Service to address this bill.

Mr. RETTINGER. Mr. Chairman, H.R. 1744 is identical to section 302 of H.R. 4325 of the 97th Congress. H.R. 4325 was the Motor Vehicle Theft Prevention Act and apparently got stuck in committee last year.

This bill was introduced as the civil portions of that bill to prevent stolen vehicles from leaving the country and give authority to

the Customs Service primarily to assess civil penalties for any attempt at exportation of a stolen vehicle and to provide for the Secretary of the Treasury to require procedures for presentation of special ownership documents prior to importation or exportation of vehicles.

The administration has supported the civil portions of the Motor Vehicle Theft Prevention Act and does support this bill.

I point out that H.R. 2235 of this Congress is the reintroduction of the full Motor Vehicle Theft Prevention Act, and there are some very minor changes with regard to section 302 as it is introduced in that bill with regard to off-the-road vehicles.

The Customs Service would have no administrative difficulties with enforcing the bill as written or as contained in Section 302 of 2235.

Chairman GIBBONS. Good. Any questions?

Mr. SCHULZE. What do we do now as far as checking?

Mr. RETTINGER. Very little. Customs offices do not even have Federal authority to arrest drivers of stolen vehicles as they have not committed a customs violation. I am not sure specifically what procedures we follow, but we do not have the authority to require by regulation at this point in time the documents necessary to enforce the procedures in this bill.

All right.

Chairman GIBBONS. All right. We will take up Mr. Schulze's bill, H.R. 1908.

Mr. MILLER. Mr. Chairman, I would request that the U.S. Department of Agriculture address this bill.

Mr. SINDELAR. The U.S. Department of Agriculture opposes enactment of this bill. The bill requires that individual containers or cans of imported mushrooms be marked to indicate the country in which the mushrooms were grown.

The Department opposes marking regulations which go beyond those necessary for normal administrative purposes. A marking of this type does not aid in the administration of any other U.S. regulations, nor does it provide any particular assurance to the U.S. consumers of the quality of the product involved.

In addition, there is no simple way to assure that labels indicating the country of growth are accurate. In effect, the bill would impose an extra inspection requirement which would cause an administrative delay in customs clearance.

Chairman GIBBONS. Are there questions?

Mr. SCHULZE. Just one or two, Mr. Chairman.

Chairman GIBBONS. Mr. Schulze.

Mr. SCHULZE. How do the health standards or inspection standards compare with domestic production of mushrooms or other canned foods or semiprepared foods or bulk importation of foods?

How do our standards compare with most other countries?

Mr. SINDELAR. Well, I would say this, that the monitoring of imports from the standpoint of quality controls, et cetera, are a function under the Food and Drug Administration. They have from time to time discovered cases of botulism. We likewise have discovered the same in this country. So it is really difficult to say how deep to go into this, but it is a common criticism that Food and Drug should be applying more stringent controls.

Mr. SCHULZE. But it is very difficult for them to do so, isn't it, in a practical manner?

Mr. SINDELAR. That is my understanding. That is correct.

Mr. SCHULZE. And if we were to at least let the consumer make an educated choice by having the country of origin on the label, it seems to me it would not be an extremely horrendous proposition, because as the mushrooms came in, consumers would know that they were imported, and they would know where they came from. This could be able to be easily placed on the label.

Mr. SINDELAR. Yes, but this bill states where the mushrooms are grown, not where they are processed. There is a difference. Back a number of years ago Hong Kong was starting to become a very important supplier to this market. We went into that one in some depth and found out that Taiwan was supplying most of the fresh mushrooms devoted to the canning operation in Hong Kong. More recently they have swung over to fresh mushrooms grown in China, the mainland of China.

So our question is how good is this information to the consumer.

Mr. SCHULZE. Well, it would be of value to know at least the country of origin. We will not get into a debate on that at this time, but I understand there also have been potential health problems with some of these because of the difficulty of inspecting all of them, and there has been a great deal of foreign material found in them, and some of them which have been, as you said, have the potential for botulism and other problems.

But I note the administration's opposition. Thank you.

Chairman GIBBONS. We will next take up H.R. 1948.

Mr. MILLER. Mr. Chairman, I would request the Customs Service to address this bill.

Chairman GIBBONS. All right. Customs?

Mr. RETTINGER. H.R. 1948 would require disclosure of certain information contained in the manifest which is customs form 1302. An amended version of H.R. 1948 has been included into the customs authorization bill, I believe last Wednesday. If you would like further discussion of 1948, I can get into it.

As the bill was originally written, as we have it in front of us, it requests that certain information be disclosed from the customs manifest that is not currently on the customs manifest. I believe 1948 was amended to remove those difficulties so that the manifest would not have to be amended, and the Customs Service would have no position on H.R. 1948 as amended.

Mr. FRENZEL. May I inquire of the author that apparently if our authorization is not successful, you would want to move 1948 with the amendments put on our authorization bill?

Mr. PEASE. Yes, that is right.

Mr. FRENZEL. Thank you.

You do not object to it as amended?

Mr. RETTINGER. We take no position as of now.

Mr. FRENZEL. Are you going to review it?

Mr. RETTINGER. Yes, sir.

Mr. PEASE. The new bill number is 2588.

Chairman GIBBONS. All right; let us take up H.R. 1986.

Mr. MILLER. Mr. Chairman, the administration is opposed to enactment of H.R. 1986. Imposition of additional marking and label-

ing requirements on imported goods is contrary to our attempts to encourage foreign governments to reduce similar requirements and other nontariff barriers which impede U.S. exports.

We generally oppose additional marking and labeling requirements unless they are necessary to provide essential information to consumers or to protect the public health and welfare. In this case additional information is not necessary. We believe that users of pipe fittings are knowledgeable regarding the country of origin.

Mr. FRENZEL. Mr. Chairman, this is Mr. Archer's bill, and he is not able to be present at the moment, so I cannot really anticipate the kinds of questions that he would like to ask the administration. The administration is opposed to all labeling attempts, is it?

Mr. MILLER. Well, I indicated that we were opposed to additional marking and labeling unless they provided essential information to consumers or were necessary to protect——

Mr. FRENZEL. This bill does not do this, at least in your interpretation.

Mr. MILLER. Yes, Mr. Frenzel.

Mr. FRENZEL. There is a second part of the bill which requires a particular type of marking, a permanent marking. Is that a problem for you? There has been, I think, allegations that this is an extra cost; and I think the author would like to know if that entered into your considerations or whether you simply oppose it on the basis that we do not need identification because it does not help the consumer save anybody's health.

Mr. MILLER. In this particular instance there already are requirements for certain markings. The information we have is that these markings are often painted on and are nonpermanent.

We believe that the people that actually buy the pipe fittings know the country of origin, although these are not permanent markings. We would not contest the fact that there would be a substantial cost. We do not believe there would be a substantial cost.

Mr. FRENZEL. So that is not——

Mr. MILLER. No, that was not determinative.

Mr. FRENZEL. I think Mr. Archer's problem is that some of these pipes, and tubes, and fittings, and whatever the heck they are are subject to marking requirements now and some are not. I think that is what bothers him.

All right. Well, I thank you.

Chairman GIBBONS. All right; we will go to H.R. 2113.

Mr. MILLER. Mr. Chairman, I would like to request that the Department of Agriculture address this bill.

Chairman GIBBONS. All right; fine.

Mr. SINDELAR. Mr. Chairman, I understand that the position of the Department has not yet been solidified and therefore requests that more time be given to respond. This will be done in the very near future.

Chairman GIBBONS. All right; fine.

Mr. SINDELAR. Thank you.

Chairman GIBBONS. The next bill is H.R. 2299 sponsored by Mr. Sam Hall of Texas.

Mr. MILLER. Mr. Chairman, with your indulgence I would like to ask Mr. Joseph Spetrini, of the Department of Commerce, to address this bill.

Chairman GIBBONS. All right, sir. Go right ahead.

Mr. SPETRINI. Mr. Chairman, thank you for this opportunity to address H.R. 2299, the Fair Trade in Steel Pipe and Tube Products Act of 1983.

One of the problems that the bill in its present form poses for the Department of Commerce is that in connection with the bill's proposed declaration of injury we would like to note that U.S. imports of pipe and tube from the European Community [EC]——

Mr. HANCE. Mr. Chairman, I cannot hear the witness. Could you speak up?

Mr. SPETRINI. We would like to note that U.S. imports of pipe and tube from the European Community have caught up with the drop in U.S. demand, falling from a high of 285,000 tons in January 1982 to only 26,000 tons in February 1983, a drop of over 90 percent.

There has been both an absolute and a relative decline in these imports. Import penetration for these products of the first 2 months of 1981 was 7.4 percent. It increased to 15.9 percent in the first 2 months of 1982. In the first 2 months of this year it was 7.2 percent. It is above the 5.9 percent, but it has been declining. It is down to 6.7 percent in February. Thus, in both relative and absolute terms import penetration, during the most recent period measurable, was below that of the same period for the previous 2 years.

This is not typically the kind of situation in which injury is determined under either material or serious injury standards. The previous periods also were subject to a tremendous demand/pull situation when we had the explosion in demand in the oil-related industries. In addition, it is important to consider in any discussion of alleged injury that a substantial portion of U.S. pipe and tube imports from the EEC is imported by the U.S. steel industry.

There is no evidence that the explosion of EEC pipe and tube imports in 1981 and 1982 was not fair. Four countervailing duty investigations against Italy, France, and West Germany preliminarily revealed no unfair trade.

Our investigations preliminarily found that the large French and West German tube and pipe producers were essentially unsubsidized, while imports from Italy were found not to be causing injury to U.S. producers for these particular products.

The pipe and tube arrangement must be understood in the context in which it was reached. The U.S. industry had filed over 100 separate countervailing duty and antidumping cases in January 1982 by seven companies. Two arrangements were negotiated with the EC. That finally convinced the petitioning U.S. steelmakers to withdraw their pending actions.

Basically, we concluded an arrangement with the EC which our industry agreed to. And now this bill proposes to change the conditions which the U.S. Government and the U.S. industry agreed to at that time. To aid in the enforcement of the arrangements, Congress enacted a new section 626 of the Tariff Act of 1930 by amending section 153 of Public Law 97-276 last October. This act gave the Secretary of the Treasury the authority to require the presentation of valid export licenses as a condition for entry into the U.S. in order to monitor and enforce export measures required by a foreign government or customs union pursuant to international arrange-

ments, upon request from the President and foreign governments or customs union.

In the letters which the EC wrote to us, they used the word, plural, "arrangements." We are convinced that should, as a result of consultations on pipe and tube, the United States and the EC agree that there has been diversion to the pipe and tube sector, that it would be legitimate for export measures to be applied and that everything is in place right now, except for the request from a foreign government on pipes and tubes. But, of course, it does exist on the other steel products.

We do not believe that additional unilateral enforcement authority is necessary.

Unilateral imposition of import restrictions on fairly traded steel can only be done in a GATT consistent manner under article 19 of the GATT. Normally, the United States enforces such restrictions through the International Trade Commission investigations under section 201 of the Trade Act of 1974.

If this proposed action bypasses that process and would declare without or supporting evidence an opportunity for affected parties to pose their views that injury has not already occurred, given a very large reduction in pipe and tube imports from the EC both relatively and absolutely, and the fact that a substantial portion of these imports is accounted for by the U.S. steel industry itself, this declaration would not be justified.

If they are seeking unilateral restrictions on all pipe and tube products without regard to proven unfair trade, they can pursue their desires though the section 201 process. If U.S. pipe and tube producers are being injured by unfair pipe and tube imports from the EC, they, of course, have recourse to filing antidumping or countervailing duties, section 337, or section 301 cases.

Any filing of petitions for import relief against imported pipe and tube would likely result in the termination of the pipe and tube arrangement but would not affect the licensing arrangement on the other steel products.

The pipe and tube arrangement is basically a bilateral consultative mechanism that we believe will work, and we intend to make it work. It should not now be made irrelevant and GATT compensatable by unilateral congressional action. Why should we pay for the same thing twice?

Finally, the proposed act is insufficiently flexible in application. There are certain potential scenarios, given that our industry does import pipe and tube, particularly OCTG, there are scenarios in which EC exports in excess of the arrangement's specified limits do not justify U.S. action.

For example, it is possible that imports of pipe and tube by U.S. steel producers themselves contribute in a substantial way to exceeding the specified limits. It is difficult to argue that such imports are posing injury to the U.S. pipe and tube industry and should be limited by unilateral action by the U.S. Government.

Finally, let me assure you that the Commerce Department's commitment to effectively monitor and vigorously enforce both steel trade arrangements with the EC. From my extensive personal contacts with my counterparts in the EC, I have been impressed with their parallel commitment and capability to do the same from their

end. Thus, the arrangement on pipe and tube is a completely viable trade arrangement which does not require the unilateral action proposed in H.R. 2299.

Thank you very much.

Chairman GIBBONS. We will have testimony from the principal sponsor in just a few minutes. Are there any questions? Mr. Hance.

Mr. HANCE. Mr. Chairman, I would state I am a cosponsor of this bill, along with my distinguished colleague, Mr. Sam Hall, from Texas. It was a little difficult to follow your testimony there, and I got lost several times because I couldn't hear it, so we may have to ask several questions. Last year, when we had the agreement between the United States and the European Community on steel imports, on carbon steel we got an enforcement mechanism on carbon steel, but the arrangement did not provide for an enforcement mechanism on pipe and tube.

Now, I heard part of what you said about pipe and tube imports being 17 percent at one time, and that it has apparently dropped down to 7 percent. Well, the reason it has dropped is because there has been a slump in drilling activity, and when drilling activity picks back up, they are going to continue to dump the stuff on us. We signed an agreement with them that they agreed to where they are limited to 5.9 percent of the domestic market, and right now you already recognize that their imports are over 7 percent and yet there is nothing we can do about it.

And I think the only way we are going to be able to do anything is to have some type of enforcement mechanism. We have had one plant in Mr. Hall's district that completly shut down, that was making steel pipe and tubes, and we have had some severe problems because of the lack of enforcement in the agreement. The steel industry, you said, agreed to this agreement. Some of them may have.

I can assure you that all of them did not because they were led to believe that there would be enforcement mechanisms in there. Had they known all along that someone was going to mess up and make the mistake of not having enforcement in one section of it, I can assure you that they certainly were not agreeing to that.

Mr. SPETRINI. Yes, I appreciate that. And we also are very keenly aware of the difficulties in this industry, and we are certainly hoping that the various policies the administration has put in place will help to contribute to or reach that area, but there is no clear injury at this time, given that there is consecutive months of decline in import penetration and compliance with the arrangement is based upon an annual basis.

The fact that they are above for any given month does not really constitute noncompliance in our view, and given the trend, the clear trend toward 5.9—down to 6.7 at this point, we think that perhaps the arrangement really requires more time in order to fully assess the fact that it is being complied with, and that moves are definitely being made, so that on the annual compliance basis there are no problems.

Mr. HANCE. If at the end of the year, if it is still above 5.9 percent, what action would you take at that time?

Mr. SPETRINI. Well, that is exactly when we would initiate, as soon as it looks to us that either it is arithmetically impossible or

certainly we do not see a demonstration of good faith on the part of the EC, we would initiate consultation. As stated under the agreement, they are to provide us with *x* mill shipments on a monthly basis. Because that comes in the form of a government to government communication, we cannot share them with you at this time, but we do believe that there are indications that every effort is being made to comply with the arrangement.

Mr. HANCE. What happens, though, when drilling activity picks back up, and there is more demand for pipe? Do you think they are going to continue to try to reduce their imports to 5.9 percent of the market? Have they given you any indications?

Mr. SPETRINI. I cannot predict their actions. I can only state the Department of Commerce is making and will continue to make every effort to make it work. We believe that the EC is doing exactly the same thing, and as far as what is required and what is provided for under the arrangement, we believe that on both sides there has been very excellent progress.

Mr. HANCE. Is the only thing that leads you to believe that they are trying to make it enforceable, that they are trying to get along with you on this agreement, the fact that they have dropped down to 7 percent.

Mr. SPETRINI. No.

Mr. HANCE. What else is there to lead you to believe that they are trying to live up to the agreement?

Mr. SPETRINI. Basically, as I said, the information they share with us on a government to government basis regarding their *x* mill shipments, and that combined with, as you said, the primary thing is the clear downward trend in import penetration.

Mr. HANCE. Has the Commerce Department written them and said that we hope that by the end of the year it will average 5.9 percent?

Mr. SPETRINI. Yes, we have communicated that.

Mr. HANCE. Could we have copies of those letters?

Mr. SPETRINI. I believe so. I have to just check with my lawyers, but I assume it is information we can share with you.

Mr. HANCE. Your lawyers did not work at the EPA prior to coming with you, did they? [General laughter.]

Mr. SPETRINI. For my sake, I hope not. [General laughter.]

Mr. HANCE. Me, too.

Thank you, Mr. Chairman.

Chairman GIBBONS. Thank you.

Mr. HEFTEL. Mr. Chairman?

Chairman GIBBONS. Mr. Heftel?

Mr. HEFTEL. Have you accepted the fact that the level is at 7 percent as opposed to the 5.9-percent requirement?

Mr. SPETRINI. We do not accept it as something which would prevent them from meeting the annual 5.9 limit.

Mr. HEFTEL. But you would, at this point, accept the 7 percent as being reasonably accurate?

Mr. SPETRINI. The recent figure of 6.7 for the first month which only reflects exports from the EC which were made after the November 1 beginning date. There is a substantial lag in the census figures. I think February is the first month for which over 90 per-

cent of what was shown up in those figures was actually exported after November 1.

Mr. HEFTEL. The reason I am asking is, if we are now in an economic recession, so that you would expect minimum sales activity at this time, is it reasonable to assume that you would have much higher levels when you have substantially increased economic activity?

Mr. SPETRINI. That is possible, but we cannot discount the effects of the arrangement on the EC efforts to comply with it. I believe that the fact that imports are down over 90 percent on an absolute basis and import penetration in a relative measure is also down is a very good sign, but I cannot predict.

Mr. HEFTEL. Let me ask it a different way. Are you satisfied that the ensuing months will be at 5.9 or less?

Mr. SPETRINI. No, and frankly, I do not think I need to be right now. What we need to be satisfied with is that they will reach 5.9 for the initial period, which is the 14-month period from November 1 through December 31. And I can only, in terms of evaluating whether or not we think that is going to happen, we can only point to the extreme cooperation and commitment to making that occur which the EC has consistently demonstrated.

Mr. HEFTEL. Well, if I could ask the gentleman from Texas a question, Is the industry and the delegation from Texas satisfied that the intent of the EC is to conform with the 5.9? Or is there a serious concern that this is not the intent of the EC?

Mr. HANCE. It is our feeling, and the entire delegation is backing us on this piece of legislation, it is our feeling that the reason there has been a drop is because there has been a drop in drilling activity, and the percentage is probably going to go back to 17 to 20 percent as soon as the activity picks up again. We have not seen any communications as far as I know. I do not think Mr. Hall has seen any communications—I know I have not—from the Commerce Department that shows that they are getting any letters or any communication from other—from the European Community that they are not going to continue to be above 5.9.

Mr. HEFTEL. Would it be inconsistent with your practices at Commerce to obtain written evidence and assurance that 5.9 will be the maximum, and that it is intended to remain under 5.9 in the next 9 months or 8 months that are left of the agreement?

Mr. SPETRINI. Well, I believe insofar as we have new agreements which both sides have signed, and what you see is what we have got, and again, given what I have seen in working with the community, and what I have seen in recent developments in published figures for import penetration is a substantial decline, I think we have every reason to believe we have a good piece of paper.

Mr. HEFTEL. If what you say is correct, then do you think that you could communicate that successfully to both the Texas delegation and to the industry so that they would share your acceptance of the fact that the EC will conform to the 5.9?

Mr. SPETRINI. I would be happy on any occasion to sit down with the industry or their representatives to try to give them as much assurance as I can and in as much detail and market analysis as possible as to why we do believe we have a very good piece of paper that the EC has already signed.

Mr. HEFTEL. Thank you.

Thank you, Mr. Chairman.

Chairman GIBBONS. Thank you.

Mr. Jones.

Mr. JONES. Well, Mr. Chairman, I will get to make some comments later, when we have other witnesses, but I want to urge the subcommittee to look at some flexibility on this issue, because there are people in companies who are being injured who are in the forefront of technological advances in steel processing. We have a couple of companies in Oklahoma who are using the latest in technology, taking semifinished tubular material and manufacturing it and processing it into a very high quality product.

The problem is that none of the American manufacturers of this semifinished tubular product will sell to these companies, and so they are caught in a real bind, and they are going to be terribly damaged and injured if some flexibility is not allowed for the tubular goods.

So, I just would urge the subcommittee to have some caution and some understanding that perhaps some of the greatest advances in technology in steel manufacturing and processing will be more severely damaged by this kind of legislation.

Mr. FRENZEL. Mr. Chairman?

Chairman GIBBONS. Mr. Frenzel.

Mr. FRENZEL. I do not want to say too much, because I see the author is here, and he can probably explain a lot of things that we ought to hear before we ask questions, but it does look to me as though the bill could be described as an attempt to rewrite a portion of our steel agreement in a way in which few of the participants anticipated when the agreement was negotiated. Is that correct?

Mr. SPETRINI. That is exactly true.

Mr. FRENZEL. And further, did not our agreements require them to be at 5.9 by January 1, 1984?

Mr. SPETRINI. Yes, insofar as the initial 14-month period ends December 31.

Mr. FRENZEL. Thank you very much.

Chairman GIBBONS. Are there any further questions at this time? We are going to come back to this issue again.

[No response.]

Chairman GIBBONS. All right. Let us go to H.R. 2381.

Mr. MILLER. Mr. Chairman, the administration believes that H.R. 2381 may be too restrictive to be of substantial benefit to the U.S.-flag merchant marine. We note on April 8 the Secretary of Transportation transmitted to the President of the Senate and the Speaker of the House of Representatives draft legislation that would implement five elements of the President's announced maritime policy initiatives.

Section 202 of the proposed legislation would repeal section 466 of the Tariff Act of 1930, so that the ad valorem duties would no longer apply, whether or not a U.S.-flag vessel was continually abroad for 2 years or more. We believe that the legislation proposed by the Secretary of Transportation would be preferable to that contained in H.R. 2381. The administration believes that these ad valorem duties adversely affect the ability of the U.S.-flag ves-

sels to compete with foreign flag vessels by requiring the U.S.-flag vessels to return to the United States for such repairs.

This ad valorem duty limits the flexibility of our liner operators and places undue hardship on our bulk carriers operating in foreign trades, and results in the interruption of service with a loss of operating revenues.

Mr. FRENZEL. Other than waffling, what is your position? [General laughter.]

Mr. MILLER. I think, Mr. Chairman, we have indicated that we really would prefer the broader bill that is in section 202 of the legislation proposed by the Secretary of Transportation.

Chairman GIBBONS. You are not opposed to this? Would you rather have the other bill?

Mr. FRENZEL. You want a better one, a more sweeping one.

Mr. MILLER. Yes.

Mr. FRENZEL. Why do we have a 50-percent duty? Why was that so high? Was that to protect the local yards?

Mr. MILLER. I am informed that the original intent of that duty was to protect the shipyards, ship repair yards here in the United States.

Mr. FRENZEL. And I suppose some of the effect, according to the administration, is to drive our investments to operate under other flags.

Mr. MILLER. I would think that that is——

Mr. FRENZEL. And again, the administration amendment is to encourage U.S. flags to operate and get their repairs wherever they need it.

Mr. MILLER. Yes, sir.

Mr. FRENZEL. Thank you.

Chairman GIBBONS. If we have finished Mr. Snyder's bill, let us go to H.R. 2603. Let me say before we talk about H.R. 2603 that H.R. 2603 is a bill that a number of us have introduced to provide most-favored-nation treatment to Hungary. Today we have reintroduced that bill and included the People's Republic of China.

The Chairman has had a number of conversations with the State Department on this bill. The State Department is not happy with the bill in its present form, however, I believe that we can begin to process this bill, and as the situation develops, we will be able to get all of the parties moving in the same direction.

I might also say that the committee will face the most-favored-nation treatment matter again this summer, so this is not an issue we can escape. Unless the State Department wishes to make some statement or the administration wants to make some statement at this time on this issue, perhaps we could pass over it at this time, and see what we can continue to develop.

As we will be proceeding on this issue I want to put all of the members on notice, and particularly the interested parties. We not only have most-favored-nation treatment for Hungary and China coming up this year, but we perhaps may even have it for Rumania. The Rumania issue is still a question but we are currently working on all of these matters and it is one of the things that carries a summer deadline. We will have to meet that deadline.

Of course, we have a number of other deadlines, too, in case anybody is worried about them. However, we will be working on this.

Mr. SCHULZE. Will the gentleman yield?

Chairman GIBBONS. I would be glad to yield.

Mr. SCHULZE. I just wonder whether a tariff and trade bill is really the proper vehicle for this MFN extension. This is a dramatic change from existing law, and I would just be inclined to think it might be a little bit better to handle it as a separate item.

Chairman GIBBONS. We, of course, will have to handle this as a separate item. We wouldn't include this in a noncontroversial tariff bill. It may be noncontroversial by the time we get through working on it, but I doubt it.

We will pass over this bill at this time. One member who would like to ask a question on Mr. Hall's bill, has requested that the gentleman from Commerce return to ask a question about Mr. Hall's bill. Would you please come back and take the microphone?

Mr. SPETRINI. Yes, Mr. Chairman.

Chairman GIBBONS. Mr. Hance?

Mr. HANCE. Thank you, Mr. Chairman. I have one other question.

Do you know why there were no enforcement procedures for the pipe and tube agreement when there were enforcement procedures for carbon steel?

Mr. SPETRINI. Well, basically, when it got down to the final days, naturally, the U.S. industry would prefer that this arrangement on pipe and tube be part of the arrangement on certain steel products. The EC could not or would not agree, and the U.S. industry made it very clear in the remaining days that without an agreement, a satisfactory agreement to them on pipe and tube, there would be no case withdrawal, and we told them we would get the best we could. We brought the best we could get back to them, and they thought about it, and they decided, and they turned around the next day and withdrew 44 cases, including the two cases against the EC on pipe and tube.

Mr. HANCE. But the carbon steel and the rest that had the enforcement procedures in there, primarily your major steel companies agreed to that, did they not?

Mr. SPETRINI. Yes, the seven, basically, they were seven major U.S. steel corporations.

Mr. HANCE. The major people agreed, but there was no consultation as far as the smaller producers?

Mr. SPETRINI. I am sorry. I just have to confess ignorance as to exactly what went on on the industry side.

Mr. FRENZEL. Will the gentleman yield?

Mr. HANCE. I would yield.

Mr. FRENZEL. I think most of the discussions were between the Commerce Department and those parties who filed the antidumping suits, and as I understand it, this portion of the industry had not filed that kind of a suit, had not been a complainant, and the idea of the negotiations was to get out from under the antidumping suits that were then pending, and for that reason they may have been less involved in the negotiations than other elements of the industry has filed the original suit.

Mr. HANCE. We recognize that most of your major steel companies, your big producers, were actually involved in the agreement, but so far as direct involvement with the smaller steel producers,

they were not. And they certainly did not consent to that, and I want to make that perfectly clear.

Thank you.

Chairman GIBBONS. Thank you.

We will next go to public witnesses and Members of Congress.

Mr. JENKINS. Mr. Chairman?

Chairman GIBBONS. Excuse me. Mr. Jenkins.

Mr. JENKINS. I apologize for being late, but I want to ask the Agriculture witness one question. As I understand from my staff on H.R. 1888, the famous feather and down bill, the administration did not take a position because they did not have certain figures. Is that basically the position?

Mr. SINDELAR. Yes.

Mr. JENKINS. I wonder if you could inform me, since this bill is not new, what figures do you not have? We have had this bill up before, and we have had no problem from Agriculture. This is why I am asking. Is it the fact that you have not had an opportunity to look at it, or is it the fact that there are some specific criteria or facts that you need?

Mr. SINDELAR. I have been told that the industry expects a change in the figures because of this expansion and consolidation.

Mr. JENKINS. The industry expects a change because of what?

Mr. SINDELAR. I had better call on somebody that is more knowledgeable, much more knowledgeable than I am.

Ms. WANNAMAKER. I am Diana Wannamaker.

The industry has indicated that there may be some new statistics and changes in the industry due to an expansion and consolidation of duck production, and we are looking into the situation.

Mr. JENKINS. I am sorry, expansion of what?

Ms. WANNAMAKER. Duck production, and downs and feathers is a byproduct of that industry. So we want to now verify the situation to see if they do have a problem.

Mr. JENKINS. You need to find out how many ducks you have?

Ms. WANNAMAKER. Yes.

Mr. FRENZEL. If the gentleman would yield, which U.S. industry has called this to you attention?

Ms. WANNAMAKER. Ducks.

Mr. PEASE. What they are saying is, they need some time to get their ducks in order for this one. [General laughter.]

Mr. JENKINS. I would appreciate your getting that information soon so that we do have this information when we mark up this bill.

Thank you so much.

Chairman GIBBONS. Why, thank you.

We would like to thank all of the administration witnesses. We will go now to the congressional and public witnesses on H.R. 2299. We have with us Mr. Sam Hall, our distinguished Member from Texas. Mr. Hall, you are recognized. You may proceed as you wish. And Mr. Jones will preside until I return.

STATEMENT OF HON. SAM B. HALL, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. HALL. Mr. Chairman, I will try to talk so you can hear me.

Mr. Chairman, members of this distinguished subcommittee, I appreciate your allowing me to have a hearing on H.R. 2299, allowing me to testify in its behalf. In getting into the meat of this entire matter, the bill that I am requesting the consideration of is fairly simple and to the point.

Let me say at the outset that we are not trying to change any condition of that EC agreement that was entered into as of November 1, 1982. We are not trying to change or we are not trying to rewrite anything that has been said heretofore. What we are attempting to do is to make enforceable something that was not enforceable on the steel pipe and tube provision of that agreement of 1982, effective November 1, 1982.

This bill has been cosponsored by most of the members of the Texas congressional delegation and others outside of the delegation, including introduction in the Senate by Senators John Tower and Lloyd Bentsen. It does not seek to depart from normal trade practices. It does seek some equity for a segment of the steel industry that has been treated like the proverbial stepchild in the recent trade negotiations, namely, the steel pipe and tube.

Frankly, if the so-called carbon steel arrangement negotiated with our European allies and trading partners last October had included some enforcement language on exports of steel and pipe to our shores, there would really be no need for me to be here today.

As you are aware, the need for an agreement between the United States and the European Community on steel was clearly demonstrated last summer after a large number of antidumping and countervailing duty petitions were pending before the Department of Commerce.

An agreement on carbon steel was negotiated which said, in effect, that the European community would limit their exports of carbon steel products and pipe and tube products to the United States at the level they exported to us in the 3-year base period of 1979–81.

Actually, it was a pretty good deal for the Europeans, because this base period showed unbelievable penetration by the Europeans, especially on pipe and tube, but in essence, there was a separate agreement on pipe and tube, and that is where the matter that I am concerned about comes to the forefront.

There was a separate agreement on pipe and tube, and unlike the carbon steel arrangement, it really had no enforcement mechanism. Now, that is the crux of the problem that I bring to you today.

Now, on carbon steel, the agreement on carbon steel, that contained an enforcement that required our trading partners to control their exports by means of issuing export licenses. As you all know, under U.S. law, the Secretary of Treasury may require the presentation of those export licenses as a condition for customs entry.

By contrast, and here is my bill right here, the pipe and tube arrangement does not provide for a European Community export license procedure. My bill, H.R. 2299, simply gives the licensing procedure for pipe and tube. In essence, it is patterned directly on the carbon steel arrangement. It is just a matter of fairness and equity

or, in other words, comparable treatment for one segment of the industry that got left holding the bag on the steel arrangement.

Now, at this point, the gentleman from Commerce said a moment ago that we have got to show injury before we can come forward. Well, I can show that. I can show a plant at Lone Star, Tex., that laid off 4,000 people and went under last August, in August 1982. It is operating just to keep the boilers operating. It has got some management people there. It has got some folks working, but for all intents and purposes, Lone Star Steel has shut down.

There are some 10,000 to 12,000 people unemployed in an area around this plant site. The unemployment in four or five counties surrounding the plant site of Lone Star Steel, Texas, averages 28- to 30-percent unemployment.

Now, I say that is an injury that we can show, and it is there. It is there this minute. Now, I know a lot of folks will try and blame the general economic conditions, especially the downturn in the oil and gas business, for this problem. This company managed to keep its plant open and operating during many previous downturns in the pipe and tube business.

What is so different about this particular steel product recession is that it is also characterized by a large inventory buildup of imported pipe and tube products. In fact, I am told there is now a one to 2-year inventory of oil country tubular goods, yet steel pipe and tube products still flow into the United States at an unbelievable rate. It is difficult to say how much these imports exceed the allowable because it is based on forecasts by Data Resources, Inc.

Now, we heard some testimony here a moment ago about the high DRI forecast, the Data Resources, Inc., forecast. It is generally felt that the Data Resources, Inc., forecast may be greatly wide of the mark. As a matter of fact, it might not be accurate, and in all likelihood it is too high. It is generally felt that they are wide of the mark, but once reconciled with the actual figures, we may see an exceeding of the agreement by as much as 100 percent.

Again, H.R. 2299 is not protectionist. We do not seek that at all. All we seek is equity. The enforcement authority in the bill is only triggered when imports threaten to exceed the levels negotiated under the European Community arrangement, and after the consultations required between the parties fail to resolve the question and the problem.

And please know that this legislation does not seek to prop up an outmoded industry, as some have said. Over the past decade, the companies that comprised the pipe and tube business have invested hundreds of millions of dollars in order to remain competitive by world standards.

Digressing for a moment from the prepared text, what we are seeking to do is nothing other than to enforce the provisions of the arrangement covering pipe and tube, steel pipe and tube, as we have in the arrangement that covers the carbon steel. Now, the arrangement covering carbon steel is enforceable. The arrangement covering the steel pipe and tube provides only for consultation, and what we are asking here is only that we have the same rights, the same privileges to be given equity as in the other arrangement.

Now, it was stated earlier that what we are attempting to do would void the EC agreement. This is the only way under the letter agreement between the Department of Commerce, and I am assuming that all of you gentlemen have a copy of that agreement or those agreements before you, this is the only way that we can come forward and try to get relief through the legislative area.

If we filed a suit, if we did anything to try to get into the guts of that EC agreement, then the EC agreement would in all likelihood become null and void because the parties involved in it would have a right to withdraw.

You might say, well, why did you not get involved in it back last year? We did not know at that time, because you had a rig count—it was about in 1981, in December of 1981—you had a rig count of 4,500. The current level today is about 1,800 rigs.

When we found out that we had problems, we wrote a letter, we being the Texas delegation, unanimously wrote a letter to the President stating that this area that I am representing here today should be brought in and made a part of that agreement.

It was too late at that time to do it, and we were not able to—at that time we were not able to show injury; 1981 was a banner year for Lone Star Steel. We could not show the injury that you had to show then, so we wrote this letter, and I believe it was in June, on June 15, when we determined what our situation was. We had to shut it down in August of 1982.

We are asking for equity. That is all. We are not trying to be protectionist, but we think that this part of that EC agreement is not fair by any stretch of the imagination. It is not fair to the steel pipe and tube industry, and they are going under as a result of it.

I appreciate your very kind attention, and I am open for any questions. If I cannot answer them, I will tell you so.

[The prepared statement follows:]

STATEMENT OF HON. SAM B. HALL, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. Chairman, members of this distinguished Subcommittee, you do me a great honor by scheduling a hearing on my bill, H.R. 2299, and allowing me to testify in its behalf. I realize how busy the Subcommittee is, and I have tried to keep my statement as brief as possible.

During your trade hearings several weeks ago I submitted a statement which demonstrated some of my concerns over current U.S. trade policy, and I also mentioned how one facet of this policy has affected a critical industry in my Congressional District.

Yours is an awesome responsibility. American industry and its workers are looking to you for some relief on the one hand. Yet, on the other hand, you are trying to help this nation formulated a trade policy that will not lead to the type protectionism that unfortunately helped precipitate the Depression of the 1930s. I don't envy your job at all.

Now, the bill that I am requesting consideration of is fairly simple and to the point. It has been co-sponsored by most of the members of the Texas Congressional Delegation, including introduction in the Senate by Senators John Tower and Lloyd Bentsen. Entitled the "Fair Trade in Steel Pipe and Tube Products Act of 1983," it does not seek to depart from normal trade practices. It does seek some equity for a segment of the steel industry that has been treated like the proverbial stepchild in recent trade negotiation; namely steel pipe and tube.

Frankly, if the so-called "Carbon Steel Arrangement" negotiated with our European allies and trading partners last October had included some enforcement language on exports of steel and pipe to our shores, then there would really be no need for me to appear before you today.

As you are aware, the need for an agreement between the United States and the European Community on steel was clearly demonstrated last summer after a large number of anti-dumping and countervailing duty petitions were pending before the Department of Commerce.

An agreement on carbon steel was negotiated which said in effect that the European Community would limit their exports of carbon steel products and pipe and tube products to the United States at the level they exported to us in the three year base period 1979 through 1981.

Actually, it was a pretty good deal for the Europeans, because this base period showed unbelievable penetration by the Europeans, especially on pipe and tube.

But, in essence there was a separate agreement on pipe and tube, and unlike the Carbon Steel Arrangement, it really had no enforcement mechanism. This is the crux of the problem I bring you today.

Now, on carbon steel the agreement contained an enforcement that required our trading partners to control their exports by means of issuing export licenses. As you all know, under the U.S. law, the Secretary of Treasury may require the presentation of those export licenses as a condition for customs entry.

By contrast, Mr. Chairman, the Pipe and Tube Arrangement does not provide for a European Community export license procedure. My bill, H.R. 2299, simply gives a licensing procedure for pipe and tube. In essence, it's patterned directly on the Carbon Steel Arrangement. It's just a matter of fairness and equity, or in other worlds, comparable treatment for one segment of the industry that got left "holding the bag" on the steel arrangement.

In fact, Mr. Chairman, if I may be a bit presumptuous, it was reported to me that during one of your recent hearings, you alluded to a comparable situation when you stated something to the effect that, and I quote as the quote was given to me, "The part of the steel industry that had the Administration's ear got its wish, while the other part got shafted."

You know, there is a tremendous human drama to all this, and of course it's the situation down in my area of Texas with Lone Star Steel Company, which is a consolidated subsidiary of Northwest Industries in Chicago. Last fall approximately 4,000 of the hardest-working, most productive people you'd ever hope to meet were laid off. I can say without hesitation that their plight can be almost entirely blamed on the cumulative effect of unfair trade practices by the European Community and Japan in the past several years. Lone Star produces pipe and tube, or technically, oil country tubular goods.

Now, I know a lot of folks will blame general economic conditions, especially a downturn in the oil and gas business, for the problem. But let me tell you something, and that is that this company managed to keep its plant open and operating during many previous downturns in the pipe and tube business. What is so markedly different about this particular steel product recession is that it is also characterized by a large inventory build-up of imported pipe and tube products.

In fact, I am told there is now a one to two years inventory of oil country tubular goods. Yet, steel pipe and tube products still flow into the United states at an unbelievable rate.

It is difficult to say how much these imports exceed the allowable, because it is based on forecasts by Data Resources Incorporated. It is generally felt that the Data Resources Incorporated forecasts may be wide of the mark, but once reconciled with the actual figures, we may see an exceeding of the agreement by as much as 100 percent.

Thus, while demand right now is low, foreign producers continue to build up their inventories in the U.S. Tragically, when demand does increase, then before my people can be put back to work, the inventory must be consumed. In short, our trading partners are playing games with us. Therefore, each day we postpone putting teeth in the European Community, we are exacerbating a bad situation.

Again, H.R. 2299 is not protectionist. It seeks equity. The enforcement authority in the bill is only triggered when imports threaten to exceed the levels negotiated under the European Community arrangement and after the consultations required between the parties fail to resolve the problem.

Finally, please know that is legislation does not seek to prop up an out-moded industry. Over the past decade the companies that compromise the pipe and tube business have invested hundreds of millions of dollars in order to remain competitive by world standards. The problems now facing the industry are primarily the result of import practices by other nations that are largely unresponsive to U.S. market conditions.

Mr. Chairman, again I want to thank you and all our colleagues on this Subcommittee for your time and patience. Your staff has been particularly patient and

helpful in trying to arrange my appearance. I ask that H.R. 2299 be given close, positive consideration, and I ask your permission to include a couple of very brief statements of support from segments of the industry for the hearing record. Thank you.

Chairman GIBBONS. All right, fine Thank you, Mr. Hall.

Who has questions? All right, Mr. Pease.

Mr. PEASE. Thank you, Mr. Chairman.

I would like to thank our colleague from Texas for bringing this situation to our attention. We certainly do have a problem in the tubular steel industry in this country. In my district, several thousand steelworkers are laid off, also. They are producing the same sort of oil country goods. I had understood that the inventories that you referred to that are being built up in the oil country are made up chiefly of Japanese products rather than European products.

I do not know exactly the statistics for continued penetration of European steel products. We hear that they are going down. But the disturbing news that I have heard is that the Japanese are shipping in inventory to pipe distributors on a "pay when you sell" basis, so that the distributors are able to keep their inventories reasonably full, even in the face of very little business, at no cost to themselves. The Japanese are essentially financing these inventories, so that when business does pick up, which we all hope that it will, those inventories will be sitting there, and it will be a long time before there is any demand made on your producers and our producers here in the United States to supply oil country goods.

I just wonder if that meshes at all with your understanding of the situation.

Mr. HALL. Well, of course, this EC agreement does not include the Japanese per se or in any way, for that matter, but I am satisfied that what you say is true, and I do not think we have anything dealing with the Japanese setup in the Lone Star Steel area, and that is the only one that I can speak to at this time.

Mr. PEASE. Thank you very much.

Chairman GIBBONS. Mr. Frenzel.

Mr. FRENZEL. Mr. Hall, I thank you for your fine presentation. The problem that I see with your bill, which apparently the administration does, too, is that it does not follow the agreement negotiated between ourselves and the EC, for in that agreement, as I understand it, pipe and tube was a separate category, and in your bill you break it down into finer categories, which was not agreed in that negotiation.

Is that your understanding of the situation?

Mr. HALL. No, sir. We are not trying to break down anything as to what was entered into between the United States and the EC back in October—effective November 1. I am looking at a copy of the two letters that were written, one to Mr. Baldrige from some gentleman—whose name I cannot pronounce—in Brussels, and a letter that he wrote back on of October 21, 1982, setting out what the agreement was, and we are not trying to change anything in those agreements, Mr. Frenzel.

We are just trying to get some equity for the enforcement provisions on the area that we are concerned about. We are trying to get away from the consultation. You can consult until you go broke. But we want to get some teeth in the consultation so that we can

monitor it like they do in the other portion of this arrangement. They have got everything. They have got teeth in the other portion of it, but in the one that I am talking about now, we have no teeth in it at all.

Mr. FRENZEL. Well, I appreciate the spirit in which you bring us the bill. However, on page 3 of your bill, you have different kinds of tubing categorized. There are seven different products, and you have a different percentage with a different annual import for each one of them. That is clearly not what was done in our agreement with the EC.

We have a single limit of, I believe, 5.9, which was meant to include all of those types of grades and differentiation.

Mr. HALL. But all of that, if I may interject, all of those separate market share limitations are all based on the levels negotiated in the arrangement.

Mr. FRENZEL. I say again the arrangement negotiated an overall limit at the express request of the parties. They may have used that as a basis to strike, but they wanted the ability to have the flexibility within the overall category. At least that is my understanding.

And if I can proceed, another thing, we are talking about annual quotas in the agreement. Your bill makes them quarterly quotas, and that again is something that we did not negotiate, and it seems to me that you are not simply asking for enforcement power under the agreement, you are changing the agreement itself in at least a couple of respects.

Mr. HALL. Well, our position is that we are trying to keep it exactly as the EC agreement indicated in November 1982. We are not proposing to change anything other than—and we are only trying to get some enforcement in how we can protect ourselves when the agreement is not carried out. As we say, it is not being carried out at this time.

Mr. FRENZEL. Thank you very much.

Chairman GIBBONS. Mr. Heftel.

Mr. HEFTEL. Mr. Hall, I do think that there are problems in your definitions, because I think they do deviate from the manner in which the original agreement was drafted and agreed to. More important, perhaps, do you have any further knowledge why enforcement was not provided for only for the pipe and tube provision?

The answer of the gentleman from Commerce did not give me the information I was looking for, but I am satisfied that there must have been a reason that enforcement was deleted, which tends to make us suspect of what then happened. If you ask that there be no enforcement on the provisions of an agreement and then the parties say that there was violation or deviation and harm, then it makes you wonder if they knew what they were doing.

Could you amplify on that?

Mr. HALL. Well, the only thing I can say to that, Mr. Heftel, is the fact that we were not a party to this agreement in 1982. I have asked myself the same question, and I have asked people who were involved in this, why was not the same enforcement proceeding put in both portions of that arrangement? I have not received an answer that satisfies me. All I know is, it is not in there.

Mr. HEFTEL. Would you be satisfied if enforcement applied also to tube and pipe and there were no other changes, just the addition of the enforcement proceeding?

Mr. HALL. In all likelihood, I would be. I would want to study that further, and I will be happy to do that and come back and give that answer. At this point, I would say yes, provided we had proper monitoring, and do the consulting, just like they do in the other portion of this arrangement. We are just trying to pattern our portion after the portion that is enforceable.

Mr. HEFTEL. Mr. Chairman, would it be appropriate to ask the Commerce Department to report back to the committee on why there was no enforcement provision, and what is involved if we do now enact an enforcement provision?

Chairman GIBBONS. Sure, we will do that.

Mr. HEFTEL. Thank you, Mr. Chairman.

Thank you, Mr. Hall.

Mr. HALL. Thank you, sir.

Mr. FRENZEL. If the gentleman will yield, this law was written by Senator Heinz, who added it as a Senate amendment to, I think, a continuing appropriation. When the bill came to the floor of the House, nobody seemed to care very much except myself. I pointed out that it would be very difficult to administer a steel agreement under a short paragraph of language which had never had a hearing and never been considered by either of the two Departments, Commerce and Treasury, who had to administer it.

It was an absolutely jury-rigged piece of law that was invented to ratify the agreements which had just been made after some furious negotiation as a result of those antidumping cases.

What we were trying to do was to keep commerce alive and keep the steel industries in both areas alive, and as was pointed out earlier, because there were no antidumping cases for tube, there had been—we did not have all of the numbers and all of the information. There was no proof of injury. The thing that we had for everything else we did not have for this particular sector of the industry. So, I think it is quite natural that it would be difficult or that it would be different and perhaps difficult to administer.

Mr. JONES. Mr. Chairman, just one question of our colleague. Is the steel industry united behind your bill?

Mr. HALL. Mr. Jones, I cannot answer that question. I will be able to answer it for you, I think, within the next several days, but I do not have the information at this time.

Mr. JONES. Thank you, Mr. Chairman.

Chairman GIBBONS. Are there any further questions?

Mr. JENKINS. Mr. Chairman?

Chairman GIBBONS. Mr. Jenkins.

Mr. JENKINS. Mr. Hall, thank you for your testimony. Let me ask you one thing. Were the tube and pipe people a part of the agreement?

Mr. HALL. The Lone Star Steel Co. was not.

Mr. JENKINS. If a petition is filed under the terms of the agreement, would that give the right to other countries to terminate the agreement?

Mr. HALL. That is correct.

Mr. JENKINS. And does that also apply to the tube industry?

Mr. HALL. Yes, it applies to both. It states in here, and I was trying to locate it a moment ago, and I have read it a dozen times and cannot find it when I want to, section D, and this is a letter that I am looking at to Mr. Baldrige from this gentleman on behalf of the counsel of the European Community, and it is section D.

It says, "If estimates based on the above information and projections of U.S. apparent consumption of pipes and tubes shows that the 1979–81 average described in paragraph A might be exceeded, or that a distortion of the pattern of U.S.–EC trade has occurred within the pipe and tube sector, consultations between the EC and the U.S. will take place in order to find an appropriate solution. If after 60 days no solution has been found, each party will take within its legislative and regulatory framework measures which it considers necessary."

Now, that is section D. On over on page 3, it says, in both instances dealing with the two arrangements, one dealing with the carbon steel arrangement, and the steel pipe and tube arrangement, it says, "If petitions are filed or litigation commenced by the petitioners or litigants other than those referred to in the previous paragraph," and I am talking about my portion of this now, "or investigations initiated on pipe and tube products, the EC will be entitled to terminate this exchange of letters, if during consultation with the U.S. it is determined that the petition, which is a lawsuit, litigation, which of course is self-evident, or investigation threatens to impair the attainment of the objectives of this exchange."

Section D says the only thing we can do is to take this within the legislative and regulatory framework if after 60 days no solution has been found. That is what we are doing.

Mr. JENKINS. And you have already been through the consultation, or you could not get the administration to do it?

Mr. HALL. We could not get it.

Mr. JENKINS. The administration made a bad deal for you.

Mr. HALL. It is not the best one.

Mr. RUSSO. Mr. Chairman?

Chairman GIBBONS. Mr. Russo.

Mr. RUSSO. Do they have a greater percentage of the market than is set forth in the agreement, the European Community?

Mr. HALL. I am sorry, Mr. Russo, I did not hear you.

Mr. RUSSO. Do they have a greater percentage of the market than is called for in the agreement, the European Community?

Mr. HALL. Yes.

Mr. RUSSO. How much greater?

Mr. HALL. I do not know. I will get the answer for you, but I do not have it now.

Mr. RUSSO. Because as I understand it——

Mr. FRENZEL. Would the gentleman yield on that?

Mr. RUSSO. Yes.

Mr. FRENZEL. The Commerce Department testified that the most recent figures, or that imports from the EC overall were 6.7 percent—I am sorry, that is pipe and tube were 6.7 percent. In 1981, they were 14 percent. Under the terms of the agreement, they are obliged to get to 5.9 percent on an annual basis by January 1, 1984. So, it seems to me that they are on track, or perhaps ahead of schedule in meeting that agreement. They have not met it yet, but

on the other hand, they have got 8 more months to get there. So, it is a little hard to say whether they are there, because the first checkpoint has not been reached.

Mr. RUSSO. Well, I guess my concern would be, if they are violating the agreement, and we have no enforcement provisions, we are in bad shape, and we ought to be prepared for some kind of situation where if they do not meet the 5.9, we ought to at least have some enforcement mechanism in the law to deal with that.

Otherwise, the agreement is absolutely meaningless, and we ought not pass legislation or support agreements where they can be made meaningless just by the simple fact that somebody can keep dumping in here and we had nothing to stop them. It is just absolutely ridiculous, it seems to me.

Chairman GIBBONS. Are there any questions?

[No response.]

Chairman GIBBONS. Thank you, Mr. Hall.

Mr. HALL. Thank you, gentlemen.

Chairman GIBBONS. Our next witness is a constituent of Mr. Jones from the Tubular Corp. of America, Mr. Robert Alpert. Mr. Jones.

Mr. JONES. Mr. Chairman, I want to welcome Mr. Alpert to the Trade Subcommittee, and I apologize. We have these conflicts, and right at this moment I am supposed to be over in the Speaker's office to meet with the leadership on the budget process question, so I will go to that meeting and be back just as quickly as I can.

Mr. Alpert and his company are constituents of the neighboring congressional district in the hometown in which I grew up, and a constituent of Congressman Mike Synar, but they and a company in my district are introducing and have introduced the latest technology in this kind of steel processing, and as I mentioned earlier, they stand to be injured very seriously the way this legislation is presently written. So I welcome Mr. Alpert to the subcommittee, and look forward to hearing his testimony, and I hope that my colleagues will keep an open mind on a possible amendment that would be necessary to make sure that in protecting against injury in one segment we do not cause undue injury in another segment of this industry.

Thank you, Mr. Chairman.

Chairman GIBBONS. Thank you, Mr. Jones. Your statement was very wise. We have here an ad hoc agreement that was a result of an attempt to settle a lawsuit and a situation which would have been far better had they proceeded to the end of the lawsuit. However, somebody just could not stay out of the lawsuit, and they settled it with this ad hoc agreement. It slipped through without a public hearing and not even more than one Senator on the floor with the legislation implementing the act. They have already apparently damaged Lone Star Steel by this action, and now it looks like we are getting ready to damage maybe another American taxpayer and employer. Therefore, let us be very careful of what we do on this legislation.

We are glad to have you here. All of this gets right back to the fact that this country will not let these countervailing duty cases and these dumping cases go to their logical conclusion. Somebody has always got to stick their sticky fingers into the process. This is

an extremely complicated matter involving not only the European Community but different parties within the European Community, some of whom were not found to have been guilty of any unfair trade practices.

We will be glad to hear from you, sir. Let us hear what you have to say.

STATEMENT OF ROBERT ALPERT, CHIEF EXECUTIVE OFFICER, TUBULAR CORP. OF AMERICA, INC.

Mr. ALPERT. Thank you.

Good afternoon, Mr. Chairman, and members of the Committee. My name is Robert Alpert. I am the chief executive of Tubular Corp. of America, which is a company in the processor sector for the production of oil country tubular goods which, by the way, consists of casing, tubing, and drill pipe.

My remarks are related to H.R. 2299 as well. The H.R. 2299 threatens to make the effects of the earlier EC arrangement even more severe on the processor segment. I can characterize that as saying if the processor sector actually is caught between the domestic steel producers, call that a rock, and the U.S. Government's position, which is a hard spot, we are threatened with an inability to secure raw material, which is, of course, our primary feedstock.

With the appropriate amendment to make clear that our raw material, which are green tubes, are not subject to the trade restrictions under the U.S.-EC arrangement, H.R. 2299 could be helpful rather than damaging to the domestic processor sector. The processor sector starts with a semifinished pierced tubular shell, often referred to as a green tube in the production of oil country tubular goods. The emergence of the processor sector was prompted in large part by supply and quality problems encountered by the U.S. oil industry in purchasing OCTG from the domestic integrated steel mills.

The OCTG processor industry, utilizing modern equipment and intensive inspection procedures, has developed in response to market demand and provides a domestic source of extremely high quality OCTG for the oil exploration industry.

In recognition of the valuable role to be played by processors in producing this product line, the American Petroleum Institute approved a special processor category for API licensing in 1982, and the first API processor licenses were issued within the last sixty days.

There are approximately a dozen companies of this variety which are principally located in the State of Texas and Oklahoma. These dozen companies are at various stages of securing their license. Our company has concluded a license with the API.

To provide a little background, our company, which I will call TCA, was formed in 1980 specifically for the purpose of producing OCTG and we have built a $50 million plant in Muskogee, Okla., which entered into operation in mid-1982. The facility utilizes state-of-the-art procedures and the most modern equipment. We have over 20 computerized operations in this plant, and when we are at productive capacity we will employ over 350 people.

The raw material purchased by TCA for our production of OCTG consists of semifinished pierced tubular shells. These green tubes come directly from a seamless mill hot bed of an integrated steel producer. The tubes have to meet exacting chemistry and dimensional requirements, but they are an unfinished product. As purchased, they are not useful for any other purpose other than additional processing. We employ 26 manufacturing steps.

In concluding, our procedures to provide oil country tubular goods, in making the investment in the Muskogee plant, and initiating production, TCA had planned to draw upon both domestic and imported sources of green tubes. We have solicited price quotations for green tubes from all domestic integrated steel producers that make seamless tubing and casing.

These companies have indicated little or no interest in selling green tubes to TCA, generally refusing even to give price quotations. It is apparent that the integrated steel companies do not wish to supply green tubes to companies in the processor sector, and green tubes simply are not available in the domestic market.

For this reason, access to foreign supplies of green tubes is essential to the survival of the companies in the processor sector. Since the arrangement restricts the level of European pipe and tube exports to the United States, EC producers prefer to sell the higher value-added finished products, rather than the low value-added green tubes.

Green tubes are a new item of trade, resulting from the emergence of the U.S. processing sector. Therefore, freezing trade into traditional channels would not protect the processor sector but would serve to deprive this segment of raw materials it must have to function.

H.R. 2299 would result in even more rigid restrictions on pipe and tube trade, effectively closing any possibility to obtain green tube imports from the European Community. I am only able officially at this point to speak on behalf of TCA, although I believe from consultations with the other tubular processors who, with our company, are in the process of forming a tubular processors association that their views are consistent with mine.

We feel that the bill, in its present form, could seriously damage the processor sector, if not eliminate it, and we urge that the bill be amended to remove governmental interference with our access to green tubes. An analogy for exclusion of green tubes from import restrictions already exists in the arrangement between the United States and the European Community with respect to flat-rolled products.

Under that arrangement, semifinished material, such as slabs, are outside of the specific quantitative limitations and may be freely imported by U.S. producers for processing into flat-rolled products. Green tubes are semifinished products in the same sense as are slabs. Indeed, the value added in the United States, which is certainly a key issue in converting green tubes into OCTG, is substantially greater than the value added in the United States in rolling slabs into sheet or plate.

The production of the OCTG processor sector is highly labor-intensive, and resulting in added value of approximately 100 percent above the green tube price. I believe that the amendment I have

suggested is fully consistent with the objectives of H.R. 2299, namely to provide the environment for healthy and competitive domestic pipe and tube industry.

Access to green tube imports is imperative to the survival and development of the processor sector. Such access would not result in unwarranted competition by imports with any product being offered by the domestic steel industry. Since green tubes are not being offered in the market by domestic producers, it is conceivable that domestic producers of oil country tubular goods might object to our proposed amendment on the ground that giving the processor sector access to the green tubes would result in greater competition in the production of OCTG in the United States.

However, I think such an objection is unlikely. It would be an abuse of U.S. trade laws for one group of producers in the United States to block competition from other domestic producers by seeking import restrictions on their access to raw materials.

In closing, I would like to refer to comments concerning H.R. 2299 made by its principal sponsor, the Honorable Sam B. Hall, Jr. In introducing the bill, Congressman Hall stated:

> Over the last decade, millions of dollars have been invested in modern plant facilities and equipment. Substantial attention has been given to the problems of cost control. This is not a case of an antiquated domestic industry being pushed aside by more efficient foreign competitors.

Those comments take on a particularly forceful meaning with respect to the processor sector. I believe the reference to millions of dollars invested in modern plant facilities and equipment must include recent investment by the processor sector in state-of-the-art production facilities, including the $50 million invested since 1980 by TCA in its Muskogee, Okla. plant.

It would be most ironic and unfortunate if the modern and competitive domestic processor sector of the pipe and tube industry were pushed aside, in Congressman Hall's words, by U.S. Government import restrictions that denied us access to the raw materials, namely green tubes, that are the very life blood of our production.

In summary, I strongly urge that the Congress, in considering H.R. 2299, adopt an amendment that would specifically exclude green tubes from import monitoring and restraints under the U.S.-EC pipe and tube arrangement. Such an exclusion is necessary to prevent Government import restraint actions from causing serious damage to our domestic industry.

During Mr. Hall's comments he made today, he mentioned he was seeking equity for another segment. Well, here is another segment that also must address equity. It is critical to the survival of this segment.

I thank you for your attention.

[The prepared statement follows:]

STATEMENT OF ROBERT ALPERT, CHIEF EXECUTIVE OFFICER, TUBULAR CORP. OF AMERICA, INC.

Good afternoon, Mr. Chairman and members of the Committee. My name is Robert Alpert. I am Chief Executive Officer of Tubular Corporation of America, Inc., which is a company in the "processor" sector for the production of oil country tubular goods, which consist of casing, tubing, and drill pipe. Our production facility

is located in Muskogee, Oklahoma, on the Arkansas River, and our principal administrative and sales office is located at 2350 North Belt East, Houston, Texas.

I appreciate the opportunity that the Subcommittee has provided to me to appear this afternoon. I wish to address my remarks to H.R. 2299, the "Fair Trade in Steel Pipe and Tube Products Act of 1983," which would provide statutory authority to enforce the informal pipe and tube trade restraint arrangement negotiated last October between the United States and the European Community. That arrangement already has had an adverse effect on the processor sector of the domestic oil country tubular goods industry, by restricting access to semi-finished tubular shells, which are our basic raw material. H.R. 2299 threatens to make the effects of the arrangement even more severe. However, with appropriate amendment to make clear that green tubes are not subject to trade restrictions under the U.S.-EC arrangement, H.R. 2299 could be helpful, rather than damaging, to the domestic processor sector.

Oil country tubular goods traditionally have been produced in the United States by the major steel companies, who are integrated in their production of OCTG from steel making through all intermediate production steps to the final production of the finished oil country tubular goods. The "processor" sector, on the other hand, starts with semi-finished pierced tubular shells (often referred to as "green tubes") in the production of oil country tubular goods.

Emergence of the "processor" sector was prompted in large part by supply availability and quality problems encountered by the U.S. oil industry in purchasing OCTG from the domestic integrated steel mills. The OCTG processor industry, utilizing modern equipment and intensive inspection procedures, has developed in response to market demand and provides a domestic source of extremely high quality OCTG for the oil exploration industry.

While OCTG can be produced and sold without American Petroleum Institute certification, the API mark is important because it certifies that OCTG meets certain industry-recognized standards. In recognition of the valuable role to be played by processors in producing OCTG, the American Petroleum Institute approved a special processor category for API licensing in 1982, and the first API processor licenses were issued within the last 60 days. There are approximately one dozen companies in the domestic industry who are at various stages in obtaining API processor licensing. These developments demonstrate, I believe, that the processor sector is a dynamic, innovative segment of the United States steel industry. The emergence of the processor sector is the type of development that will keep the steel industry in the United States competitive on a world scale. I am confident that the domestic processor sector is capable of producing OCTG that is equal in quality to the Japanese, who generally are regarded as quality leaders.

I would like to briefly describe the operations of an OCTG processor, with reference to my own company, Tubular Corporation of America. T.C.A. was formed in 1980 specifically for the purpose of producing OCTG, and we have built a $50 million plant at Muskogee, Oklahoma, which entered into operation in mid-1982. Our facility utilizes state-of-the-art procedures and the most modern equipment. For example, we have over 20 computerized operations in our plant, to ensure maximum uniformity and quality of our product. Yet, notwithstanding this highly automated equipment, OCTG production remains very labor intensive. When operating at capacity, our plant will employ 350 people.

The raw material purchased by T.C.A. for its production of OCTG consists of semi-finished pierced tubular shells or "green tubes." The green tubes come directly from the seamless mill hotbed of an integrated steel producer; while the tubes must meet exacting chemistry requirements, they are an unfinished product and require no finishing floor work by the supplier. As purchased, the green tubes are not satisfactory for end use, but rather can function only as a raw material for further processing.

In the first stage of its production, T.C.A. heats the low grade semi-finished pierced tubular shells to a very high temperature, transforming them to the austenitic state. Next the austenitic shells are quenched, which changes the steel from austenite to martensite. The martensitic shells are then reheated for tempering. Finally, the quenched and tempered shells are conveyed to a multi-roll straightner/sizer at a high temperature. Through this combination of metallurgical and physical changes, the green tube is transformed into a precisely dimensioned product with mechanical qualities entirely different from those of the raw material. The resulting tubes are then finished, threaded, and subjected to rigorous testing. This testing is an integral and very important part of the production process, since it prevents the release of any defective tubes into the market and also provides information for quality control during the production process.

In making the investment in the Muskogee plant and initiating production, T.C.A. planned to draw upon both domestic and imported sources of green tubes. We have

solicited price quotations for green tubes from all domestic integrated steel producers that make seamless tubing and casing. However, these companies have indicated little or no interest in selling green tubes to T.C.A., generally refusing even to give price quotations. It is apparent that the integrated steel companies do not wish to supply green tubes to companies in the processor sector, and green tubes simply are not available in the domestic market.

For this reason, access to foreign supplies of green tubes is essential to the survival of companies in the processor sector. The U.S.-EC Pipe and Tube Arrangement, which is the subject of H.R. 2299, already has had a serious negative effect on the ability of T.C.A., and other companies in the processor sector, to obtain this essential raw material. But for that Arrangement, I am certain that EC suppliers would provide a source of green tube supply for U.S. processors. However, with the Arrangement in place, EC producers have been reluctant to make commitments to sell green tubes to the United States. Since the Arrangement restricts the level of European pipe and tube exports to the United States, EC producers prefer to sell the higher value added finished products, rather than the low value added green tubes.

The problem of access to green tubes under the United States-European Community arrangement does not result from "upgrading" of imports as compared with historical trade patterns. Green tubes are a new item of trade, resulting from the emergence of the U.S. processing sector. Therefore, freezing trade into traditional channels would not protect the processor sector, but would serve to deprive this segment of United States industry of the raw materials it must have to function.

In its present form, H.R. 2299, the Fair Trade in Steel Pipe and Tube Products Act of 1983, would only make this situation worse. By providing for statutory enforcement of the informal pipe and tube arrangement with the European Community, H.R. 2299 would result in even more rigid restrictions on pipe and tube trade, effectively closing any possibility to obtain green tube imports from the European Community.

Because of the threat posed to the very existence of the processor industry by trade actions taken by the United States Government, which would be reinforced by H.R. 2299, a number of companies in the processor sector have discussed forming a trade association, in order to more effectively present our concerns and position to Congress and the Executive Branch. I am now in the process of assisting in establishing this trade association, which we can plan to call "The American Tubular Processors Association."

In the meantime, I am only able officially to speak on behalf of T.C.A., although I believe from consultations with other companies in the processor sector that my sentiments, as expressed today, are shared by them. In particular, we feel that H.R. 2299, in its present form, could seriously damage the processor sector, and we urge that the bill be amended to remove governmental interference with our access to green tubes.

An analogy for exclusion of green tubes from import restrictions already exists in the arrangement between the United States and the European Community with respect to flat rolled products. Under that arrangement, semi-finished materials, such as slabs, are outside of the specific quantitative limitations and may be freely imported by U.S. producers for processing into flat rolled products. Green tubes are semi-finished products in the same sense as slabs. Indeed, the value added in the United States in converting green tubes into OCTG is substantially greater than the value added in the United States in rolling slabs into sheet or plate. The production of the OCTG processor sector is highly labor intensive, resulting in added value of approximately 100 percent above the green tube price.

I believe that the amendment I have suggested is fully consistent with the objective of H.R. 2299, namely to provide the environment for a healthy and competitive domestic pipe and tube industry. Access to green tube imports is imperative to the survival and development of the processor sector. Such access would not result in unwarranted competition by imports with any product being offered by the domestic steel industry, since green tubes are not being offered in the market by domestic producers. It is conceivable that domestic producers of oil country tubular goods might object to our proposed amendment on the ground that giving the processor sector access to green tubes would result in greater competition in the production of OCTG in the United States. However, I think such an objection is unlikely. It would be an abuse of United States trade laws for one group of producers in the United States to block competition from other domestic producers by seeking import restrictions on their access to raw materials.

In closing, I would like to refer to comments concerning H.R. 2299 made by its principal sponsor, the Honorable Sam B. Hall, Jr. In introducing the bill, Congressman Hall stated:

"Over the last decade, millions of dollars have been invested in modern plant facilities and equipment. Substantial attention has been given to the problems of cost control.

"This is not a case of an antiquated domestic industry being pushed aside by more efficient foreign competitors."

Those comments take on a particularly forceful meaning with respect to the processor sector. I believe that the reference to millions of dollars invested in modern plant facilities and equipment must include recent investment by the processor sector in state-of-the-art production facilities, including the $50 million invested since 1980 by T.C.A. in its Muskogee, Oklahoma plant. It would be most ironic and unfortunate if the modern and competitive domestic processor sector of the pipe and tube industry were "pushed aside," in Congressman Hall's words, by U.S. Government import restrictions that denied us access to the raw materials, namely green tubes, that are the very life blood of our production.

In summary, I strongly urge that the Congress, in considering H.R. 2299, adopt an amendment that would specifically exclude green tubes from import monitoring and restraints under the U.S.-EC pipe and tube arrangement. Such an exclusion is necessary to prevent Government import restraint actions from causing serious damage to our domestic industry.

Thank you for permitting me to express my views and concerns on this issue of vital importance to Tubular Corporation of America. I would be pleased to attempt to answer any questions the members of the Subcommittee might have concerning my testimony.

Chairman GIBBONS. Did you attempt to buy steel from Lone Star Steel?

Mr. ALPERT. We did.

Chairman GIBBONS. What was their response?

Mr. ALPERT. Their response was not to quote, but in general Lone Star is not a seamless producer. It is an ERW producer principally, but we did ask them to sell ERW and they declined.

Chairman GIBBONS. Do they have the capacity to produce green tubes?

Mr. ALPERT. They do have the capacity to produce one portion of the green tube requirement. There are two types. One is electric resistance welded product, which they principally make. The other is a seamless product, which they are not a significant factor in.

Chairman GIBBONS. How recently have you asked the American industry and the American steel producers to provide you with a quote for prices?

Mr. ALPERT. Within the last 4 months.

Chairman GIBBONS. With steel sales at this low level they will not sell to you?

Mr. ALPERT. That is true. The rhyme and reason why, it is really not an economic decision, it is a commercial decision. They prefer to sell their oil country products in a finished condition into the marketplace. I am sympathetic to that, but I would think that wanting to sell or create some incremental capacity utilization might be a concept worth considering.

Chairman GIBBONS. Not in recent years but in years past, I have had processors in my own area complain of the same thing. They would call up an integrated steel producer to order material, and could not get a quote. At times they couldn't even get the telephone answered. If they called back a second time, they could not find anyone who would give them a quote.

Mr. ALPERT. Our efforts were even a little more comprehensive than telephone calls. We sent out detailed specifications and written inquiries.

Chairman GIBBONS. The industry we are talking about is the same industry that has experienced the severe unemployment problems over the last couple of years?

Mr. ALPERT. Yes, sir.

Chairman GIBBONS. They certainly are hungry for business, are they not?

Does anyone else have any questions?

Mr. JENKINS. Mr. Chairman.

Mr. PEASE. Yes, Mr. Chairman.

Chairman GIBBONS. Mr. Pease.

Mr. PEASE. Thank you, Mr. Chairman. I appreciate this very excellent testimony.

Did you receive responses or quotations from any American steel companies?

Mr. ALPERT. We actually received one—two responses from two domestic producers. One of them quoted a price for the finished product which was more than the market price for the—I am sorry, quoted a price for the semifinished product which was greater than the market price for the finished product.

So by quoting that number they were effectively not quoting.

Mr. PEASE. What about the other one?

Mr. ALPERT. The other one indicated they may be willing to quote, but have never done so.

Mr. PEASE. Where are you purchasing your green tubes now?

Mr. ALPERT. From the European countries, although that has fallen off dramatically since the EC agreement, and from Japan.

Mr. PEASE. What percentage of your green tubes do you purchase from Japan?

Mr. ALPERT. Well, I would say right now it is maybe half.

Mr. PEASE. Is there any reluctance on the part of the Japanese steel companies to sell to you?

Mr. ALPERT. Yes, there is a great deal of reluctance, but, on the other hand, they feel that the processor sector is a logical compromise between the free traders and the protectionists simply because there is so much added value created stateside and there is employment created in the process.

Mr. PEASE. Are you able to get all of the green tubes you need now?

Mr. ALPERT. No, we are not.

Mr. PEASE. When you have finished processing these tubes, to whom do you sell the finished product?

Mr. ALPERT. We go through the same channels that Lone Star and other oil country producers go through, which means that we sell an oil country tubular distributor or we sell an oil company, causing the sale to be channeled through an oil country tubular distributor.

Mr. PEASE. Were you here earlier when I was making the comment about reports that the Japanese were putting out finished products to distributors on consignment?

Mr. ALPERT. Yes.

Mr. PEASE. Do you know whether that is correct or not?

Mr. ALPERT. It is correct in a very, very limited manner. You will find that what happened was not so much that they are bringing in new product and putting it on consignment, but that they are

going back to distributors that they had sold and who did not pay them for the goods, so they have been taking title to the goods and, rather than moving them off the distributor's site, they retain title and sell it to them as they are able to pay for the goods.

So that is more of a commercial credit matter than an import matter. If you were to contrast—I think this is the crux of the question. If you were to contrast the import activity of the Japanese in these particular product lines with that of the Europeans, you would find that it is fractional, believe it or not, in 1983.

Mr. PEASE. The Japanese are selling significantly less than Europeans?

Mr. ALPERT. That is correct, or bringing into this country considerably less quantities of tonnage than are the European countries.

Mr. PEASE. Your company competes with the European companies in approaching the distributors. Is that correct?

Mr. ALPERT. Well, the European companies are a little different and there is one company, as an example, that has the effect of what you were concerned about a moment ago without doing it in the manner you described.

This company has their own sales organization here which is set up as a master distributor, so they import great quantities of product and keep it available within their ownership, within their own leased facilities or leased truckyards. Then they have the prompt availability for the distributors when they call.

There is—the major German producer does a great deal of that, but for the most part it is interesting. Some of the European producers sell directly to the oil companies, not going through a distributor, and some of them sell through a distributor to the oil companies. So it is a function of different strategies per different producer, whereas all of the American producers sell exclusively through domestic oil country tubular distributor companies.

Mr. PEASE. Is that by choice of the American manufacturers?

Mr. ALPERT. Yes.

Mr. PEASE. They could do it the other way if they wished to?

Mr. ALPERT. Well, they could. There is some concern that they might, but this is one of those traditions. It has been this way for decades.

Mr. PEASE. Well, you certainly would not want to violate tradition, would you?

Mr. ALPERT. Absolutely not in the steel industry.

Mr. PEASE. When you compete with the European firms, how do you do in terms of price?

Mr. ALPERT. Well, we are able to actually receive a higher price than the foreign producer would receive. Principally, we can respond quicker. We do more inspection of the product. All of our products are inspected electronically, employing electromagnetic inspection, so it gives the user a higher degree of confidence that the products will not suffer rejection.

That is a part of all of that computerization I was describing.

Mr. PEASE. Would you describe your European competitors or your Japanese competitors as being unfair in the way they compete with you for their customers?

Mr. ALPERT. No, I really would not.

Mr. PEASE. Thank you very much.

Chairman GIBBONS. Mr. Jenkins.

Mr. JENKINS. Thank you very much, Mr. Chairman.

Is your company a privately owned company or is it a subsidiary?

Mr. ALPERT. We are privately held.

Mr. JENKINS. You do not have a captive market?

Mr. ALPERT. We do not.

Mr. JENKINS. I believe you commenced this business in 1980.

Mr. ALPERT. We incorporated in 1980, yes, sir.

Mr. JENKINS. You had roughly a $50 million investment?

Mr. ALPERT. Yes, sir.

Mr. JENKINS. I would assume at that time before you invested that kind of money you had a market for raw materials.

Mr. ALPERT. We did have the availability of some raw materials, yes.

Mr. JENKINS. Were all of these foreign suppliers?

Mr. ALPERT. At that point in time, yes.

Mr. JENKINS. Do you buy any tubing domestically presently?

Mr. ALPERT. We do buy a component of our product line domestically, which is made domestically, which is the coupling which joins the pipe.

Mr. JENKINS. Do you import all of the green tubes?

Mr. ALPERT. Right now we import all of them. We felt that this downturn would be an absolutely ideal period to secure domestic supply and get back to the long-term strategy that we had of having a balance between foreign supply and domestic supply, but, as I described, that was a fallacy.

Mr. JENKINS. Even before you constructed your plant in 1980 you were unable at that time to get a domestic supplier.

Mr. ALPERT. That is correct.

Mr. JENKINS. So, I assume you went ahead and made arrangements for importing your green tubes before constructing your plant.

Mr. ALPERT. To a limited degree, we did.

Mr. JENKINS. Does most of that come from West Germany?

Mr. ALPERT. Some of it comes from West Germany, some of it comes from France, some of it comes from Italy, Spain, Austria.

Mr. JENKINS. The facts are you cannot purchase any on the domestic market as cheap as you can import.

Mr. ALPERT. I do not think that is the issue. We have not been able to purchase any for any economic amount of money from any domestic seamless producer of pipe.

Mr. JENKINS. Except the two that you indicated?

Mr. ALPERT. We have not been able to conclude a purchase at all with either one of them. We have received one quotation and the price on that was more than the market price, which makes no sense—that a raw material should cost more than the finished product should cost.

Mr. JENKINS. Do the raw materials cost more than the finished product?

Mr. ALPERT. It did in that case, but it should not.

Mr. JENKINS. They were making too much on the product.

Mr. ALPERT. No. They really did not want to sell us.

Mr. JENKINS. Do they produce the same product that you sell to compete with you?

Mr. ALPERT. Yes, they do.

Mr. JENKINS. Are they the major steel companies, domestic steel companies?

Mr. ALPERT. It was one of the seven companies that would have been involved in the EC discussion.

Mr. JENKINS. Do they produce the same commodity that you produce?

Mr. ALPERT. They do.

Mr. JENKINS. At the present time?

Mr. ALPERT. Yes, they do.

Mr. JENKINS. You obviously would like to continue to get the green tubes. Your proposed amendment to this would exclude green tubing. Is that right?

Mr. ALPERT. That is correct.

Mr. JENKINS. Would you include the finished product?

Mr. ALPERT. That is also correct. We have not and never would be inclined to import finished product for oil country.

Mr. JENKINS. The oil companies might.

Mr. ALPERT. Well, we are not an oil company. I have put this proposed amendment forth for the processor segment. Oil companies very clearly do and there are some oil companies that, for some applications of these products, much prefer the foreign-produced product. Those are the kind of oil companies that are supporting TCA.

The reason why they would, believe it or not, is not price. The issue is the very, very tight tolerances and quality control which must go into those products.

Mr. JENKINS. Thank you.

Chairman GIBBONS. Anybody else?

[No response.]

Chairman GIBBONS. Thank you.

Mr. ALPERT. Thank you.

Mr. FRENZEL. Mr. Chairman.

Chairman GIBBONS. Yes, Mr. Frenzel.

Mr. FRENZEL. Could I proceed out of order for a minute?

Chairman GIBBONS. Go right ahead.

Mr. FRENZEL. Mr. Chairman, I have in my hand a letter from the Commissioner of Customs to our colleague on the full committee Mr. Dorgan relating to the language this subcommittee passed in accompanying the customs authorization bill.

The Commissioner of Customs informs Mr. Dorgan that he has directed his staff to notify field officers that action has been suspended in this business involving duty-free stores on which we spoke. The Commissioner also asks that we try to include some language in the appropriations bill so it would not cause the confusion that the language in the 1983 continuing appropriation did.

May I present it to you and then maybe we could write the Appropriations Committee requesting that?

Chairman GIBBONS. He is out there.

Mr. FRENZEL. Then that matter would be straightened out. I thank the Chairman.

Chairman GIBBONS. The Chair has a dilemma. It appears as if we have a vote pending. We will go and vote and, unless there is a serious objection, we will come right back. This is a quorum call with a 5-minute vote immediately following.

Does that suit you, Mr. Chairman?

STATEMENT OF HON. JAMIE L. WHITTEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSISSIPPI, AND CHAIRMAN, HOUSE APPROPRIATIONS COMMITTEE

Mr. WHITTEN. That is fine with me, Mr. Chairman. I might leave my statement, if you would permit, before you go. I will try to be back, but if I cannot, if I could leave my statement here.

Chairman GIBBONS. We will accept your statement and we will put it in the record. We will take notice that the chairman of the Appropriations Committee has a deep interest in that bill.

[The prepared statement follows:]

STATEMENT OF HON. JAMIE L. WHITTEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSISSIPPI

Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to appear here in support of H.R. 1226, a bill I sponsored, along with the distinguished Chairman of this Subcommittee, Congressman Sam Gibbons, Congressman Richard Ray and others, to reduce temporarily the duty on certain disposable surgical drapes and sterile gowns and correct an inequity in the current tariff structure.

This legislation, which would be in effect for a five-year evaluation period, would simply place the manufacturers of similar products, although of different materials, on an equal competitive footing.

In fact, I understand that there is very little opposition to the bill and, after careful scrutiny by the Commerce Department, it has the support of the Administration.

In my area, the legislation would help one of our new, growing industries, Kimberly-Clark in Corinth, Mississippi, continue its expansion. Some 250 people are currrently employed in the manufacture of the polypropylene base sheets which are used in the final production of the Kimberly-Clark disposable surgical drapes and sterile gowns, and the company is in the process of spending some $55 million in expanding its Corinth facilities which would mean another 75 jobs. Similar expansion is going on by Kimberly-Clark in the La Grange-Troup-Columbus, Georgia, area.

Under our current tariff structure, a duty rate of 5.6 percent ad valorem is placed on gowns and drapes made of "reinforced paper" which is really 55 percent polyester and only 45 percent wood pulp. At the same time, similar products made of bonded-fiber fabrics pay a duty rate of 25.8 percent and 14 percent, respectively, for gowns and drapes.

As you can see, this results in rates that are four to five times greater than those of "paper" products.

Mr. Chairman, this narrowly-drawn legislation simply equalizes tariff rates at 5.6 percent for man-made fibers used in the production of disposable drapes and gowns where there is no apparent reason for distinctions to be drawn.

As you know, Mr. Chairman, it was this Subcommittee through your leadership which reported similar legislation last session. And while it passed the House, it was taken out by the Senate during the special session.

I urge my colleagues here to give favorable consideration to this legislation and woud be glad to provide any further requested information.

Mr. FRENZEL. Is that my bill, Mr. Chairman, that he is supporting? [Laughter.]

He is a discerning chairman.

Chairman GIBBONS. It was my bill last year and I could not get it through the Senate, but we are hoping the Appropriations chairman can get action out of the Senate.

Thank you. We will be right back as soon as we vote.

[Recess.]

Chairman GIBBONS. We will accept Mr. Whitten's testimony for the record.

We have Surgikos, Inc., Mr. Eugene Rossides, as the next witness.

STATEMENT OF EUGENE T. ROSSIDES, COUNSEL, SURGIKOS, INC., ARLINGTON, TEX., ACCOMPANIED BY ROBERT McINTYRE, COUNSEL

Mr. ROSSIDES. Thank you, Mr. Chairman, and members of the subcommittee. My name is Eugene Rossides. I am a partner in the law firm of Rogers & Wells, and I am here today with my partner Mr. Robert McIntyre. We are here today to testify on behalf of our client, Surgikos, a Johnson & Johnson Co., located in Arlington, Tex., and we are here to testify concerning H.R. 1226, a bill to reduce temporarily the duty on certain disposable surgical drapes and sterile gowns. Surgikos appears in opposition to H.R. 1226.

This bill, if enacted, would create a new tariff item to be inserted in the appendix of the Tariff Schedules of the United States, with duty at the column 1 rate of 5.6 percent ad valorem, covering bonded-fiber fabric disposable gowns for use in surgical procedures, of manmade fibers, and bonded-fiber fabric disposable surgical drapes, of manmade fibers.

These bonded-fiber fabric disposable gowns are presently classified as textile items of nonwoven disposable apparel designed for use in hospitals, clinics, laboratories, or contaminated areas in items 379.96 and 383.92, TSUS, at a duty rate of 16 cents a pound, plus 24 percent ad valorem.

Surgical drapes of texiles are now dutiable at the rate of 16 cents a pound plus 13 percent ad valorem in item 389.62, TSUS. We understand that the products covered, although disposable, are made 100 percent of polypropylene, which is most emphatically not biodegradable and, for that reason, will present problems in waste treatment.

Surgikos presently markets an extensive line of disposable packs and gowns and surgical specialty products for use in major operative procedures. These products are classified as products of reinforced papers and are specifically provided for in the Tariff Schedules. This classification has been established in accordance with all the safeguards of the applicable provisions of the schedules.

In addition, our client's products, made 55 percent of wood pulp and 45 percent of polyester, are byproducts of a chemical reaction and are fully biodegradable within a short period of time. They thus do not present the same waste disposal problems.

The recent multilateral trade negotiations conducted under the auspices of the GATT have involved negotiations by all the members of the GATT, including the United States. The participants have agreed to virtually universal and uniform tariff treatment of products imported into the member countries. These negotiations, in effect, have created a carefully balanced and mutually interdependent system in which each part bears a purposefully measured relationship to the whole.

One of the programs which has developed out of the GATT is known a the GSP, or generalized system of preferences, which is

designed to assist beneficiary developing nations by granting tariff preferences on selected products incident to importations into the participating developed countries, including the United States.

Under the provisions of our GSP law, the President is required to designate the articles which may be admitted to the United States duty free under the GSP program, but he is specifically precluded from designating certain articles which the Congress has determined are import sensitive. The first category of such import-sensitive articles is textile and apparel articles, which are subject to textile agreements.

For that reason of import sensitivity, none of the TSUS items cited in the bill is designated as a duty-free GSP textile item. Further, the United States is a signatory to the multifiber arrangement for textile products, which would be adversely affected by this amendment. Finally, additional similar problems arise in the President's Caribbean Basin Initiative program, if it is approved by the Congress.

All these reasons militate against the enactment of legislation which would make a specific exception for certain textile materials without the usual safeguards of study of the impact of the proposal and negotiation of arrangements with other countries.

Further, H.R. 1226 is, understandably, drawn in general terms only. If enacted, it would open the door to imports of textile products at a very low duty rate for use as described from any country entitled to most-favored-nation treatment, thus clearing the way for further competition from any number of sources for our already beleaguered textile industry.

The Congress has provided a statutory mechanism under which individual changes in the Tariff Schedules may be made after studies of the effect on domestic industries, following the necessary investigation by the ITC, review by the USTR, and approval by the President.

Such a study can and does include consideration of all relevant factors, economic and environmental, and the reciprocal benefits the United States might achieve in return for lowering the duty rate on any given item.

Significantly, individual changes for specific products have recently been the subject of negotiations at the GATT by the USTR, with appropriate tradeoffs in which the United States receives a quid pro quo. This concept of reciprocity is sound, yet no such tradeoff is, or can be, provided in this bill.

The wisdom of adhering to bilateral negotiations made only after study is apparent here, since a study of the effect of the proposed change would, we are quite confident, indicate a seriously adverse impact on both the economic and environmental sides.

A companion bill to H.R. 1226 was introduced in the Senate as S. 37. In introducing the bill, the sponsor stated that the legislation is needed to remedy an inequity existing in the Tariff Schedules in that the duty applied to gowns and drapes made of paper was considerably less than the duty applicable to identical gowns and drapes made of bonded fabric.

That statement seems to contradict itself in distinguishing between the products, one being made of paper and one of bonded fabric, and at the same time in saying that the two are identical.

They are not, as is clear from the statement itself. Further on in the statement, the description of the gowns and drapes as being identical is reduced to a statement that they are substantially identical.

The bonded fiber gowns and drapes are shown as being 100 percent polypropylene, which is correct in our understanding. It then goes on to describe our client's product as being 55 percent polyester and only 45 percent woodpulp, concluding that the chief value of both products consists of manmade fiber. In fact, Mr. Chairman, our client's product consists of 55 percent woodpulp and 45 percent polyester. Somehow, a transposition has occurred in the stated percentages.

The classification of this product as reinforced paper by Customs has a legal presumption of correctness and is so provided for in law and the classification of our client's product as being of reinforced paper is not only legally correct and presumed to be so, it is also factually correct.

The two products are not identical or even substantially identical. The chief component of our client's products is woodpulp, while the bonded fiber products covered by H.R. 1226 are 100 percent polypropylene, a manmade fiber.

Much has been made of the capital investment in two new plants described as costing $100 million each, one constructed in Mississippi and one still under construction in Georgia. It is our understanding that these plants are primarily intended to be used in the manufacture of a product which is entirely different in use and composition from the gowns and drapes which are the subject of this bill.

Mr. Chairman, for the reasons we have given, we oppose enactment of H.R. 1226. We thank you, Mr. Chairman, and members of the committee.

[The prepared statement follows:]

STATEMENT OF EUGENE T. ROSSIDES ON BEHALF OF SURGIKOS, INC.

Mr. Chairman and Members of the Subcommittee: My name is Eugene T. Rossides. I am a partner in the law firm of Rogers & Wells, and I am here this afternoon to testify on behalf of our client Surgikos, Inc., a Johnson & Johnson company, located in Arlington, Texas, concerning the bill H.R. 1226, to reduce temporarily the duty on certain disposable surgical drapes and sterile gowns. Surgikos appears in opposition to H.R. 1226.

This bill, if enacted, would create a new tariff item to be inserted in the Appendix to the Tariff Schedules of the United States (TSUS), with duty at the Column 1 rate of 5.6 percent ad valorem, covering bonded fiber fabric disposable gowns for use in surgical procedures, of man-made fibers, and bonded fiber fabric disposable surgical drapes, of man-made fibers. These bonded-fiber fabric disposable gowns are presently classified as textile items of non-woven disposable apparel designed for use in hospitals, clinics, laboratories, or contaminated areas in items 379.96 and 383.92, TSUS, at a duty rate of 16 cents a pound, plus 24 percent ad valorem. Surgical drapes of textiles are now dutiable at the rate of 16 cents a pound plus 13 percent ad valorem in item 389.62, TSUS. We understand that the products covered, although disposable, are made 100 percent of polypropylene which is most emphatically not bio-degradable and for that reason will present problems in waste treatment.

Surgikos presently markets an extensive line of disposable packs and gowns and surgical specialty products for use in major operative procedures. These products are classified as products of reinforced papers and are specifically provided for in the Tariff Schedules. This classification has been established in accordance with all the safeguards of the applicable provisions of the Schedules. As such, it provides a standard of certainty for importers and other businessmen who are able to make their business judgments based upon known and accepted standards, procedures, and rules established in current law. In addition, our client's products, made 55 per-

cent of wood pulp and 45 percent of polyester, are byproducts of a chemical reaction and are fully bio-degradable within a short period of time. They thus do not present the same waste disposal problems.

The recent multilateral trade negotiations, conducted under the auspices of the General Agreement on Tariffs and Trade (GATT), have involved negotiations by all the members of the GATT, including the United States. The participants have agreed to virtually universal and uniform tariff treatment of products imported into the member countries. These negotiations, in effect, have created a carefully balanced and mutually interdepedent system in which each part bears a purposefully measured relationship to the whole. One of the programs which has develped out of the GATT is known as the Generalized System of Preferences (GSP) which is designed to assist beneficiary developing nations by granting tariff preferences on selected products incident to importations into the participating developed countries, including the United States.

The United States has adopted the GSP in P.L. 93–618 approved January 3, 1975 (19 U.S.C. 2461 et seq.). Under the provisions of that law, the President is required to designate the articles which may be admitted to the United States duty free under the GSP program but he is specifically precluded from designating certain articles which the Congress has determined are import sensitive. The first category of such importsensitive articles is textile and apparel articles which are subject to textile agreements. For that reason, the reason of import sensitivity, none of the TSUS items cited in the bill is designated as a duty-free GSP textile item. Further, the United States is a signatory to the multi-fiber arrangement for textile products which would be adversely affected by this amendment. Finally, additional similar problems arise if the President's Caribbean Basin Initiative program is approved by the Congress. Although textiles are generally excluded from that program as presently proposed, exceptions may be put forward at a later date. In discussing the CBI recently, Senator Russell Long said he objected to giving away trading concessions without reciprocal treatment for U.S. products.

All these reasons militate against the enactment of legislation which would make a specific exception for certain textile materials without the usual safeguards of study of the impact of the proposal and negotiation of arrangements with other countries. Further, H.R. 1226 is, understandably, drawn in general terms only. If enacted, it would open the door to imports of textile products at a very low duty rate for use as described from any country entitled to most-favored-nation treatment, thus clearing the way for further competition from any number of sources for out already beleaguered textile industry.

The Congress has provided a statutory mechanism under which individual changes in the Tariff Schedules may be made after studies of the effect on domestic industries, following the necessary investigation by the International Trade Commission, review by the U.S. Trade Representative, and approval by the President. Such a study can and does include consideration of all relevant factors, economic and environmental, and the reciprocal benefits the United States might achieve in return for lowering the duty rate on any given item. Significantly individual changes for specific products have recently been the subject of negotiations at the GATT by the U.S. Trade Representative, with appropriate trade-offs in which the United States receives a quid pro quo. This concept of reciprocity is sound, yet no such trade-off is, or can be provided in this bill.

The wisdom of adhering to bilateral negotiations made only after study is apparent here, since a study of the effect of the proposed change would, we are quite confident, indicate a seriously adverse impact on both the economic and environmental sides.

A companion bill to H.R. 1226 was introduced in the Senate as S. 37. In introducing the bill, the sponsor stated that the legislation is needed to remedy an inequity existing in the Tariff Schedules in that the duty applied to gowns and drapes made of paper was considerably less than the duty applicable to identical gowns and drapes made of bonded fabric.

That statement seems to contradict itself in distinguishing between the products, one being made of paper, and one of bonded fabric, and at the same time in saying that the two are identical. They are not, as is manifest from the statement itself. Further on in the statement, the description of the gowns and drapes as being identical is reduced to a statement that they are substantially identical.

The bonded fiber gowns and drapes are shown as being 100 percent polypropylene, which is correct in our understanding. It then goes on to describe our client's product as being 55 percent polyester and only 45 percent wood pulp, concluding that the chief value of both products consists of man-made fiber. In fact, our client's product consists of 55 percent wood pulp and 45 percent polyester. Somehow, a

transposition has occurred in the stated percentages. The classification of this product as reinforced paper by Customs has a legal presumption of correctness and is so provided for in law and the classification of our client's product as being of reinforced paper is not only legally correct and presumed to be so, it is also factually correct. The two products are not identical or even substantialy identical. The chief component of our client's products is wood pulp while the bonded fiber products covered by H.R. 1226 are 100 percent polypropylene, a man-made fiber.

Although the bill is described as one to provide a temporary tariff reduction, I think it will come as no surprise to the chairman and members of this subcommittee to be told that many changes in the Tariff Schedules labeled as being temporary have a way of continuing and becoming de facto permanent changes with the passage of time.

Much has been made of the capital investment in two new plants described as costing $100 million each one constructed in Mississippi and one still under construction in Georgia. It is our understanding that those plants are primarily intended to be used in the manufacture of a product which is entirely different in use and composition from the gowns and drapes which are the subject of this bill.

Mr. Chairman, for the reasons which we have given, we oppose enactment of H.R. 1226.

Thank you, Mr. Chairman.

Chairman GIBBONS. Thank you, Mr. Rossides.

Mr. McIntyre, do you wish to be heard?

Mr. MCINTYRE. No, thank you, Mr. Chairman.

Chairman GIBBONS. Thank you very much.

Mr. ROSSIDES. Thank you.

Chairman GIBBONS. Our next witnesses are from the Kimberly-Clark Corp. If you would come forward, and when you speak if you would just identify yourself for the record.

STATEMENT OF ROBERT F. RIETER, VICE PRESIDENT, NEW BUSINESS DEVELOPMENT, HEALTH CARE, NONWOVEN AND INDUSTRIAL, AND MEDICAL FABRICS GROUP, KIMBERLY-CLARK CORP., ACCOMPANIED BY JEANNE H. VAN DER WAL, REGULATORY ATTORNEY, AND RICHARD H. KIMBERLY, DIRECTOR, FEDERAL GOVERNMENTAL RELATIONS

Mr. RIETER. Thank you, Mr. Chairman. I am Bob Rieter, vice president in the health care division of Kimberly-Clark, and I have with me today Jeanne van der Wal, regulatory attorney for Kimberly-Clark, and Richard Kimberly, director of governmental affairs.

Mr. Chairman, I will highlight the written testimony which we have submitted.

Chairman GIBBONS. All right, your entire testimony will be put in the record.

Mr. RIETER. I am here in support of H.R. 1226, a bill to reduce temporarily the duty on certain disposable surgical drapes and sterile gowns. First, a disposable sterile surgical gown is worn during surgery by the surgical team—doctors, nurses and the assistants. It is a sterile product that acts as a barrier to cross-contamination infection. both for the doctor and patient. A surgical drape is used to cover the patient and also acts as a barrier to cross-infection.

Since our testimony before this subcommittee last year, there have been some notable changes. First, the scope of the bill has been narrowed from a bill dealing with hospital and surgical apparel to a bill to temporarily reduce the duty on certain disposable surgical drapes and sterile gowns. Second, our $55 million expan-

sion of our Corinth mill in Mississippi has been completed, and the 75 additional employees that we spoke about last year are now in training at that mill. In addition, we have broken ground on our new $120 million site in LaGrange, Ga. And third, we appreciate the administration's recognition that this tariff equalization measure is not amenable to negotiations, resulting in the administration's no objection position on this year's bill.

During this same period, however, the underlying need for this legislation has not changed. The tariff schedules still favor some U.S. corporations over other U.S. corporations. American companies now manufacturing bonded fiber fabric surgical drapes and sterile gowns are still subject to duties three to five times higher than are American competitors of identical products classified as reinforced paper. The adverse effect of these high tariffs on cost containment efforts also has not changed. We believe the exceptionally high duties paid on disposable polypropylene surgical drapes and sterile gowns do little to assist this country's concerns over skyrocketing hospital costs and inflation.

The rationale for seeking a temporary reduction in duties for disposable surgical drapes and sterile gowns of bonded fiber fabric is to remedy a significant tariff inequity. Disposable hospital gowns and drapes predominantly of paper, or paper reinforced with manmade fibers, have an applicable duty rate of 5.6 percent ad valorem, yet disposable surgical drapes and sterile gowns predominantly of bonded fiber fabric are classified so they have a duty rate three to five times higher.

A key provision of the bill is its 5-year timeframe. The bill provides for a temporary reduction to 5.6 percent ad valorem which will expire in 5 years. The 5-year term was selected to provide time for Kimberly-Clark to assess the success and effectiveness of our major capital investment for the manufacture of the polypropylene base sheet. We believe this trial period will demonstrate that the reduction will have a favorable effect on U.S. industry and jobs by expanding U.S. component fabric production facilities and raw material suppliers.

Kimberly-Clark has already spent in excess of $100 million for the construction of our Corinth, Miss. mill, which manufactures the polypropylene base sheet for these products. With the completion of our $55 million expansion, this mill now employs more than 325 people. Further, the corporation has moved forward on its commitment to invest an additional $120 million to build another U.S. polypropylene base sheet facility in LaGrange, Ga. The corporation needs several years to evaluate the performance of the product and to establish a reasonable return on these initial investments. Tariff parity with the rest of the disposable surgical drape and sterile gown market for 5 years would go a long way toward providing a fair test for this evaluation.

There are two customs rulings that are at the heart of the problem. Although, as we indicated, our products are substantially identical to those of our competitors, we have found it necessary to seek a legislative solution because we are unable to fit within existing Customs Service rulings. The Customs Service has issued two rulings which classify a competitive fabric as reinforced paper, although the reinforced paper's component of chief value is polyes-

ter. The effect of these rulings is to treat comparable competitive products with identical end uses very differently.

We are not here to find error with the Customs Service rulings but, rather, to point out that as a result of the Customs Service's rulings, one type of fabric is assessed a tariff one-fifth that of a substantially identical competing product. Thus, merely because our fabric does not contain a minimum amount of paper made on a papermaking machine, this ruling places our health care division at a very substantial disadvantage. The component of chief value for both fabrics is manmade fiber. The finished products have the same end uses and are sold to the same markets.

Let me say a few words about the competitive status of the marketplace. The bill, in its current form, will not change the competitive status of the domestic assembly operations for disposable surgical drapes and sterile gowns. This 5 percent of the market is expected to operate in the future as it has in the past.

The assembly of disposable surgical drapes and sterile gowns is labor intensive and the majority of manufacturers cannot cost-effectively have the labor performed in the United States. Manufacturers are seeking methods to minimize costs in order to cooperate with the health care cost containment efforts and to reduce the effect of inflation on their businesses.

In summary, Kimberly-Clark believes that a temporary tariff reduction establishing tariff parity for disposable surgical drapes and sterile gowns will help rectify a competitive inadequacy in current tariffs, will enable smaller health care businesses like Kimberly-Clark's health care division to become more effective competitors and will further the Nation's goals of hospital cost containment.

That concludes the summary of my testimony. I would like to take just a moment to correct some inaccuracies in J&J's testimony. I will discuss these discrepancies in the order that they were discussed.

We note, first of all, that Mr. Rossides has cited the wrong tariff rates for both drapes and gowns. The current tariff rates are in our testimony.

Repeating the same error as last year, Mr. Rossides has misrepresented the relative biodegradability of J&J's product versus Kimberly-Clark's. Polyester is a manmade material, as is polypropylene and, therefore, will biodegrade at the same rate.

J&J's comments, about the need for negotiations and studies have been addressed. As you have already heard this afternoon, the administration has no objection to this legislation. Second, both the United States and Mexico have agreed that this tariff parity measure is inappropriate for further study or negotiations.

H.R. 1226 is emphatically not, and I quote, "drawn in general terms only." This bill is deliberately narrow in scope and encompasses only disposable surgical drapes and sterile gowns of bonded fiber fabric.

Mr. Rossides also questioned Senator Cochran's reference to J&J's drapes and gowns and ours as identical. To the extent that these products are disposable gowns and drapes, in chief value of manmade fiber, assembled in Mexico of U.S. fabric, and marketed for the same uses in hospitals in every State in this country, they are identical.

Further, Mr. Rossides does not seem to understand the difference between chief value and chief weight.

Lastly, we would like to reaffirm that our Corinth mill and the LaGrange mill, upon completion, are primarily intended to produce fabric for use in our hospital products line, including our drapes and gowns.

In conclusion, we thank you for the opportunity to present this testimony and urge your favorable action.

[The prepared statement and additional material follow:]

STATEMENT OF ROBERT F. RIETER, VICE PRESIDENT, HEALTH CARE DIVISION, KIMBERLY-CLARK CORP.

I. INTRODUCTION.

The following testimony is filed on behalf of the Health Care Division of Kimberly-Clark Corporation (hereafter, "Kimberly-Clark" or the "Corporation") in support of H.R. 1226, a bill to reduce temporarily the duty on certain disposable surgical drapes and sterile gowns.

Kimberly-Clark Corporation, its consolidated subsidiaries, and its equity companies are principally engaged in a single, world-wide manufacturing and marketing business. This business primarily involves the use of fibers to serve many diverse markets. The Corporation's products are grouped into three major classes: Consumer and Service; Newsprint, Pulp and Forest Products; and Paper and Specialties.

Products in the Consumer and Service Class, the largest of the three classes, include facial tissue, bathroom tissue,

feminine napkins and tampons, disposable diapers, and household towels sold under a variety of trademarks including KLEENEX®, KOTEX®, NEW FREEDOM®, DELSEY® and HI-DRI®. This class also includes products for health care, such as disposable hospital gowns, packs, and accessories; and industrial wiping markets as well as materials sold to others for conversion.

Since our testimony before this Subcommittee last year, there have been some notable changes. First, the scope of the bill has been narrowed from a bill "[t]o reduce temporarily the duty on certain hospital and surgical apparel," to a bill "[t]o temporarily reduce the duty on certain disposable surgical drapes and sterile gowns." Second, our $55 million expansion of our Corinth Mill in Mississippi has been completed and the 75 additional employees we spoke of last year are now in training at the mill. In addition, we have broken ground at our new $120 million site in LaGrange, Georgia. And third, we appreciate the Administration's recognition that this tariff equalization measure is not amenable to multilateral or bilateral trade negotiations, resulting in the Administration's no objection position on this year's bill.

During this same period, the underlying need for this legislation has <u>not</u> changed. The Tariff Schedules of the United

States still favor some U.S. corporations over other U.S. corporations. American companies now manufacturing or that will manufacture bonded fiber fabric surgical drapes and sterile gowns are still subject to duties three to five times higher than are American competitors of identical products of reinforced paper. The adverse affect of these high tariffs on cost containment efforts also has not changed. We believe the exceptionally high duties paid on disposable polypropylene surgical drapes and sterile gowns do little to assist this country's concerns over sky-rocketing hospital costs and inflation.

II. PURPOSE OF H.R. 1226.

The rationale for seeking a temporary reduction in duties for disposable surgical drapes and sterile gowns of bonded-fiber fabric is to remedy a significant tariff inequity. Disposable hospital gowns and drapes predominantly of paper, or paper reinforced with man-made fibers, are classified in Tariff Schedules of the United States ("TSUS") item 256.8780 with an applicable duty rate of 5.6% ad valorem. Yet, disposable surgical drapes and sterile gowns predominantly of bonded-fiber fabric (man-made fiber) are classified in TSUS items 389.6265,

379.9601 (formerly 380.8407) and 383.9205 (formerly 382.8131), and are subject to duty rates three to five times higher. Currently, 389.6265 (drapes) is assessed a duty rate of 16¢ per pound plus 13% ad valorem, and the duty rate applied to 379.9601 and 383.9205 (gowns) is 16¢ per pound plus 24% ad valorem.

H.R. 1226 temporarily reduces the rate of duty on disposable surgical ~~gowns~~ drapes and sterile ~~drapes~~ gowns comprised of bonded-fiber fabric to a level of tariff parity with other disposable surgical drapes and sterile gowns comprised of polyester, nylon, polyethylene, polypropylene, and wood pulp combinations. The majority of producers of these substantially identical disposable products currently pay 5.6% ad valorem on value added, while Kimberly-Clark Corporation pays duties three to five times this amount, and we are informed that this is five to eight times the 1982 International Trade Commission average tariff collected for all free and dutiable imports of 3.6%.

III. DESCRIPTION OF H.R. 1226.

The bill has been narrowed from its original form to include only disposable surgical drapes of bonded-fiber fabric contained in TSUS items 389.6265, and disposable sterile gowns of bonded-

fiber fabric contained in TSUS items 379.9601 (men's or boys') and 383.9205 (women's and girls'). The general apparel categories for coats, shirts, suits, trousers, slacks, etc. of man-made fibers, 379.9501 (men's) and 383.9005 (women's), are not included in this bill. In order to clarify this point, the title of H.R. 1226 has been revised to be a bill "[t]o temporarily reduce the duty on certain disposable surgical drapes and sterile gowns."

The bill provides for a duty reduction to 5.6% ad valorem which will expire in five years. The five-year term was selected to provide time for Kimberly-Clark to assess the success and effectiveness of our major capital investment for the manufacture of the polypropylene base sheet. We believe this trial period will demonstrate that the reduction will have a favorable affect on U.S. industry and jobs by expanding U.S. component fabric production facilities and raw material suppliers.

Kimberly-Clark has already spent in excess of $100 million for the construction of our Corinth, Mississippi mill which manufactures the polypropylene base sheet for these products. With the completion of our $55 million expansion, this mill now employs more than 325 people, an additional 75 employees since last year. Further, the Corporation has moved forward on its

commitment to invest an additional $120 million to build another U.S. polypropylene base sheet facility in LaGrange, Georgia. The growth and success of our Health Care business will affect our plans for the LaGrange facility. The Corporation needs several years to evaluate the performance of the product and to establish a reasonable return on these initial investments. Tariff parity with the rest of the disposable surgical drape and sterile gown market for five years would go a long way toward providing a fair test for this evaluation.

The Multilateral Trade Negotiation ("MTN") final staged tariff reduction will occur January 1, 1987.* Assuming this proposed legislation is enacted, in 1988, if Congress decides against continuing the temporary reduction, the 5.6% tariff rate applicable to our products would automatically increase to the 1987 final MTN implementation rates of 9% and 17% for surgical drapes and sterile gowns respectively. Thus, even after the

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TSUS #	1983 Tariff Rate	1987 Tariff Rate
256.8780	5.6% ad val.	5.6% ad val.
379.9601	16¢ per lb + 24% ad val.	17% ad val.
383.9205	16¢ per lb + 24% ad val.	17% ad val.
389.6265	16¢ per lb + 13% ad val.	9% ad val.

implementation of all MTN staged reductions, Kimberly-Clark would still pay 160% more in duties for disposable polypropylene surgical drapes, and 300% more in duties for sterile gowns, than will medical converters of DuPont's polyester fabric.

IV. DESCRIPTION OF THE U.S. CUSTOMS RULING ENABLING DISPOSABLE HOSPITAL PRODUCTS, WHOSE COMPONENT OF CHIEF VALUE IS MAN-MADE FIBER, TO ENTER THE U.S. AT 5.6% AD VAL. AS REINFORCED PAPER.

Although, as we indicated, our products are substantially identical to those of our competitiors, we have found it necessary to seek a legislative solution because we are unable to fit within existing Customs Service rulings. The Customs Service has issued two rulings which classify a competitive fabric as "reinforced paper," although the "reinforced paper's" component of chief value is polyester. The effect of these rulings is to treat comparable competitive products with identical end uses very differently.

These rulings, numbered 027919 (July 6, 1973) and 055364, (February 19, 1980), classify disposable operating room gowns consisting of 55% polyester and 45% wood pulp as "reinforced

paper," importable at 5.6% ad valorem. The first ruling indicated that when a layer of tissue paper produced from wood pulp on a standard paper-making machine and a layer of polyester mat are entangled by pressure from sprayed water, the resulting base sheet is reinforced paper. Interestingly enough, laboratory testing indicates that a layer of finished paper, manufactured on a paper-making machine, is not essential to the production of this particular product. Pulp fibers have been found to be substitutable. Thus, it appears that one of the key reasons for including a sheet of paper in the process is to be able to state that a paper-making machine was used in the process, ignoring the fact that the majority of the process involves textile machinery.

The second ruling was a response to a request for internal advice on the first ruling from the District Director of Customs in El Paso, Texas. The District Director questioned the logic of the first ruling and indicated that the component of chief value was polyester which would, therefore, properly classify it as man-made fiber apparel. He also indicated that only the initial paper sheet was made on a conventional paper-making machine, not the entire finished base sheet. Customs responded that the component of chief value rule was irrelevant because reinforced paper is an "eo nomine" (describing a product by name)

classification provision. Secondly, Customs responded that "[i]t is sufficient that the paper used in producing the reinforced paper first was made on a standard paper-making machine without modifications" for the entire finished base sheet to be classified as reinforced paper. Thus, Customs has indicated that the fact that the component of chief value of fabric is polyester is irrelevant, and that so long as the initial base sheet is made on a paper-making machine, the result of blending the base sheet with any amount of man-made fiber is reinforced paper, not a textile, and carries a duty rate of 5.6% ad valorem. This ruling ignores the fact that the component of chief value is polyester and that, in fact, the product is a textile reinforced with paper rather than a paper reinforced with textile or "reinforced paper."

We are not before this forum to find error with the Customs Service rulings but, rather, to point out that, as a result of the Customs Service's rulings, one type of fabric is assessed a tariff one-fifth that of a substantially identical competing product. Thus, merely because our fabric does not contain a minimal amount of paper made on a paper-making machine, this ruling places our Health Care Division at a very substantial disadvantage. The component of chief value for both fabrics is

man-made fiber and the production process, excluding manufacture of the paper, is a textile process for both. The finished products have the same end uses and are sold to the same markets.

Kimberly-Clark's 100% polypropylene base sheet has demonstrated in laboratory testing such desirable characteristics as low lint, effective bacterial barrier properties, good fabric breathability and drapability, and minimal likelihood of supporting flame. Our polypropylene base sheet is a desirable product advancement that will contribute to the well-being of the patient and to cost containment by reducing hospital infection and reinfection. Illogical application of duty rates should not be used to prevent this product from reaching hospitals throughout the U.S. at a price comparable to other disposable surgical drapes and sterile gowns.

V. ADVERTISING CLAIMS FOR ARTICLES OF "SONTARA" AND "FABRIC 450," INCLUDE REFERENCES TO FABRIC AND CLOTH, AND PATENTS FOR PRODUCTION OF SONTARA AND FABRIC 450 DESCRIBE A TEXTILE PROCESS.

A review of current advertising and related literature indicates that marketers of disposable hospital products of "Fabric 450" and "Sontara," in chief value of polyester, frequently allude to their products as "linen-like" and possessing

the "characteristics of cotton" and "comfort of cotton." Thus, these companies are representing to the Customs Service that their products are paper but are marketing the same products as cloth.

Johnson & Johnson's July 9, 1976 submission to the Food and Drug Administration for clearance of Barrier Drapes contains the following references:

> These drapes are the disposable cloth-like sterile materials arranged about a body part preparatory to operation or examination . . . Fabric 450 is a spun-laced, nonwoven cloth-like fabric . . . [Emphasis added.]

In addition, Fabric 450 is referred to as "fine-meshed fabric," "nonwoven, close-textured material," and "cloth-like fabric" in a variety of Johnson & Johnson's product catalogs. Even the name Fabric 450 connotes cloth rather than reinforced paper. The referenced advertising materials are appended as Attachment A.

DuPont's 1982 annual report, on page 11, refers to "Sontara," classified by Customs as a reinforced paper, under the heading of "Spunbonded and Spunlaced Products". This title reference pertains entirely to textiles, not paper.

Our literature search also revealed that DuPont's patents indicate that the machinery used to produce Sontara and Fabric 450 is intended to manufacture textiles. This is evidenced in

the titles of the patents, the stated objectives of the inventions, and in the teachings and claims. An example is U.S. Patents 3,485,706, issued in December of 1969. The title of this patent is: "Textile-like Patterned Nonwoven Fabrics and Their Production." The stated objective of the process is ". . . to convert the layer (of fabrics) directly into coherent, highly stable, strong nonwoven fabrics which resemble many textile fabrics prepared by conventional process steps such as mechanical spinning and weaving."

The patents also demonstrate that wood pulp is not essential to the process. The majority of the process patents and material patents address 100% textile fiber structures (i.e., no paper fibers). No examples are found of 100% paper-making fiber (i.e., wood pulp) structures. Where wood pulp content is discussed and specified, it is specified at less than 100%. When pulp fibers are used, they are used to reinforce the textile fiber matrix or to reduce its cost.

Thus, although Johnson & Johnson and DuPont allege for purposes of Customs classification that Sontara and Fabric 450 products are really reinforced paper, Sontara and Fabric 450 surgical drapes and sterile gowns are being marketed as cloth or fabric. Such tactics underscore the need for Congress to provide

an equalization of tariffs and an equal ability to compete. It is simply unfair for these competitor companies to be allowed to import disposable surgical drapes and sterile gowns, in chief value of polyester, as articles of paper with a tariff of 5.6% and for Kimberly-Clark to pay three to five times this amount for the identical products.

VI. DESCRIPTION OF THE MANUFACTURING PROCESS OF POLYPROPYLENE GOWNS AND DRAPES.

Kimberly-Clark's polypropylene base sheet is manufactured only in the U.S. Polypropylene pellets are poured into a hopper, and then melted, and pumped through extruders. Fine fibers exit the extruders and are collected as an unbonded mat on a forming wire. A calendar is used to thermally bond several layers together, a process which is typical of paper-making. The result is a bonded-fiber fabric. We would like to emphasize that no spinning or weaving, in the traditional sense, characteristic of textile manufacturing is involved in the process.

VII. DESCRIPTION OF THE RELEVANT MARKET.

The bill, in its current form, will not change the competitive status of domestic assembly operations for disposable surgical drapes and sterile gowns. We would estimate that the 5% of the total market that totally assembles disposable surgical drapes and sterile gowns in the U.S. employs less than 200 persons in assembly operations. This 5% of the market, consisting of two companies, has historically faced competition from disposable surgical drapes and sterile gowns re-entering the U.S. at a 5.6% ad valorem duty rate on value added, and will continue to do so.

The assembly of disposable surgical drapes and sterile gowns is labor intensive and the majority of manufacturers cannot cost-effectively have the labor performed in the United States. Manufacturers are seeking methods to minimize costs in order to cooperate with the health care cost containment efforts and to reduce the affect of inflation on their businesses.

A chart is attached hereto as Attachment B, which sets forth estimates of the approximate market shares, product components, and tariffs of the companies comprising the disposable surgical drape and sterile gown market. The chart indicates that

Kimberly-Clark generally pays duties three to five times higher than our competitors for entry of substantially identical products. It is our belief that a reduction of the currently applicable duty rates of 16¢ per pound plus 13% ad valorem and 16¢ per pound plus 24% ad valorem for surgical drapes and sterile gowns respectively, to 5.6% ad valorem will place no greater competitive burden on totally intra-U.S. competitors than already exists. They have historically competed with products entering the U.S. at 5.6% ad valorem and they will continue to do so.

VIII. CONCLUSION.

Kimberly-Clark believes that a temporary tariff reduction establishing tariff parity for disposable surgical drapes and sterile gowns will help rectify a competitive inadequacy in current tariffs, will enable smaller health care businesses like Kimberly-Clark's Health Care Division to be more effective competitors, and will further the nation's goals of hospital cost containment.

We believe a five-year term will provide sufficient time to evaluate capital investment potential for new U.S. facilities. If the business expands as a result of reduced tariffs, the U.S.

component fabric production facilities and raw material suppliers will benefit by increased sales and expanded labor forces because the base sheet components are all manufactured in the U.S.

We appreciate the Administration's no objection position on H.R. 1226. We thank you for the opportunity to present this testimony and urge your favorable action on this important measure.

Attachment A

510(k) Submission to
the Food and Drug Administration

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
PUBLIC HEALTH SERVICE
FOOD AND DRUG ADMINISTRATION
8757 Georgia Ave.
Silver Spring, MD. 20910
August 9, 1976

Mr. John S. Samorajczyk
Senior Regulatory
Compliance Coordinator
Surgikos
A Johnson & Johnson Company
Research Division 501 George St.
New Brunswick, N. J. 08903

Ref: K760212 - Barrier Steril
PATIENT READY Drapes composed
FABRIC 450

Dear Mr. Samorajczyk:

Your Section 510(k) notification of intent to market the above device has been reviewed. We have determined, based on the information available to us at this time, that the device is substantially equivalent to one marketed in interstate commerce prior to May 28, 1976, the date of enactment of the Medical Device Amendments of 1976. You may, therefore, begin marketing of your device without waiting for the expiration of the 90-day notice period.

Upon marketing, your device will be subject to the general controls imposed by the Federal Food, Drug, and Cosmetic Act, which currently include requirements relating to annual registration with the Food and Drug Administration, adulteration, and misbranding. We will soon send you information about how to register with FDA. These current requirements may later be supplemented by regulations, which will be proposed for comment in the Federal Register, relating to current good manufacturing practices, records and reports, and other requirements. Upon final classification of the device, your product may be required to meet additional requirements applicable to Class II devices (performance standards) or Class III devices (premarket approval).

You should follow closely the classification proceedings conducted by the Food and Drug Administration so that you can convey your views to the Agency if you so desire, and so that you can promptly comply with any additional requirements subsequently imposed on your device. Information on meetings of the device classification panels, their recommendations, and the final decisions of the Agency will be published in the Federal Register. Subscriptions may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Such information also may be reviewed in the Office of the Hearing Clerk, FDA, 5600 Fishers Lane, Rockville, Maryland, 20852.

Sincerely yours,

David N. Link, Director
Bureau of Medical Devices

SURGIKOS
A Johnson-Johnson COMPANY
Research Division
501 George St.
New Brunswick, N.J. 08903

July 9, 1976

Registration and Device Listing Staff
(HFK-124)
Division of Compliance
Bureau of Medical Devices & Diagnostic Products
Food and Drug Administration
8757 Georgia Avenue
Silver Spring, Maryland 20910

"510(K) NOTIFICATION"

We are hereby notifying the Food & Drug Administration of our plans to introduce the following devices:

NAME OF DEVICES:

Surgikos - BARRIER* Sterile PATIENT READY* Drapes composed of FABRIC 450* (These drapes are the disposable cloth-like sterile materials arranged about a body part preparatory to operation or examination.)

PROPOSED CLASSIFICATION:

Drapes have a proposed classification of Class II by the General Hospital and Personal Use Panel and we concur with this classification.

SUBSTANTIAL EQUIVALENCE:

Drapes currently manufactured and distributed by Johnson & Johnson are Kaycel fabric. Kaycel is a synthetic scrim (yarn) [redacted] to render the fabric substantially repellent.

We plan to introduce drapes manufactured from FABRIC 450*. FABRIC 450* is a spun-laced non-woven cloth-like fabric

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[redacted] made from a [redacted] to render the fabric substantially repellent. We have manufactured and distributed surgical gowns of FABRIC 450* for three (3) years.

We feel that FABRIC 450* drapes are substantially equivalent to Kaycel fabric drapes with regard to safety and effectiveness in that they both have essentially the same physical attributes. the difference being that FABRIC 450* possesses a unique, esthetically pleasing softness.

ADVERTISING & LABELING:

Advertising and labeling for the FABRIC 450* drapes will be essentially the same as that currently in use for the Kaycel Drapes except that the FABRIC 450* drapes will bear the statement, "With FABRIC 450*".

Very truly yours,

John S. Samorajczyk

John S. Samorajczyk
Senior Regulatory
Compliance Coordinator

JSS:mt

* A Trademark of Johnson & Johnson

Attachment A

SURGIKOS Hospital Products Catalog

SURGIKOS

1972

Attachment A

BARRIER* GOWN MATERIALS

SURGIKOS has invested heavily in the development of surgical gown fabrics that combine the superior protective properties of single-use materials with the comfort and handling qualities of linen. BARRIER* Gowns utilize a unique combination of materials to achieve this result.

FABRIC 450*

FABRIC 450* achieves an optimal balance between efficacy and comfort for the surgical team.

Efficacy

Surgical gowns are designed to prevent bacterial migration into the sterile field, thus reducing risk of infection. However, this function depends on materials that effectively resist penetration by fluids and dry particles, which are excellent vectors for bacteria.

As fluids strike FABRIC 450* they bead and run off. Study after study, both in vivo and in vitro, have proved that FABRIC 450* effectively repels fluids and that its microporous structure eliminates risk of dry particle penetration. In contrast, standard linen draping material readily allows fluid strike-through and performs poorly against dry particles such as skin sheddings.

Comfort and Handling

If you close your eyes, then take a piece of linen draping material in one hand and a piece of FABRIC 450* in the other, you'll find it hard to tell the difference. FABRIC 450* is that soft, pliable and quiet. High breathability also makes FABRIC 450* comfortable to wear for long periods, and it's strong enough to withstand the stress of today's surgical procedures.

REINFORCEMENT MATERIALS

Various BARRIER Gowns are reinforced in the critical areas to prevent strike-through during procedures with high fluid volume. The latest reinforcement introduced by SURGIKOS is a lightweight and impervious laminate incorporated into gowns such as the BARRIER Extra Protection Surgical Gown and BARRIER Ultra Protection Surgical Gown (Figure 1).

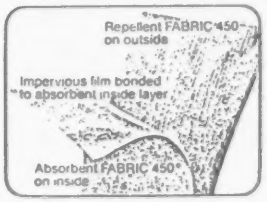
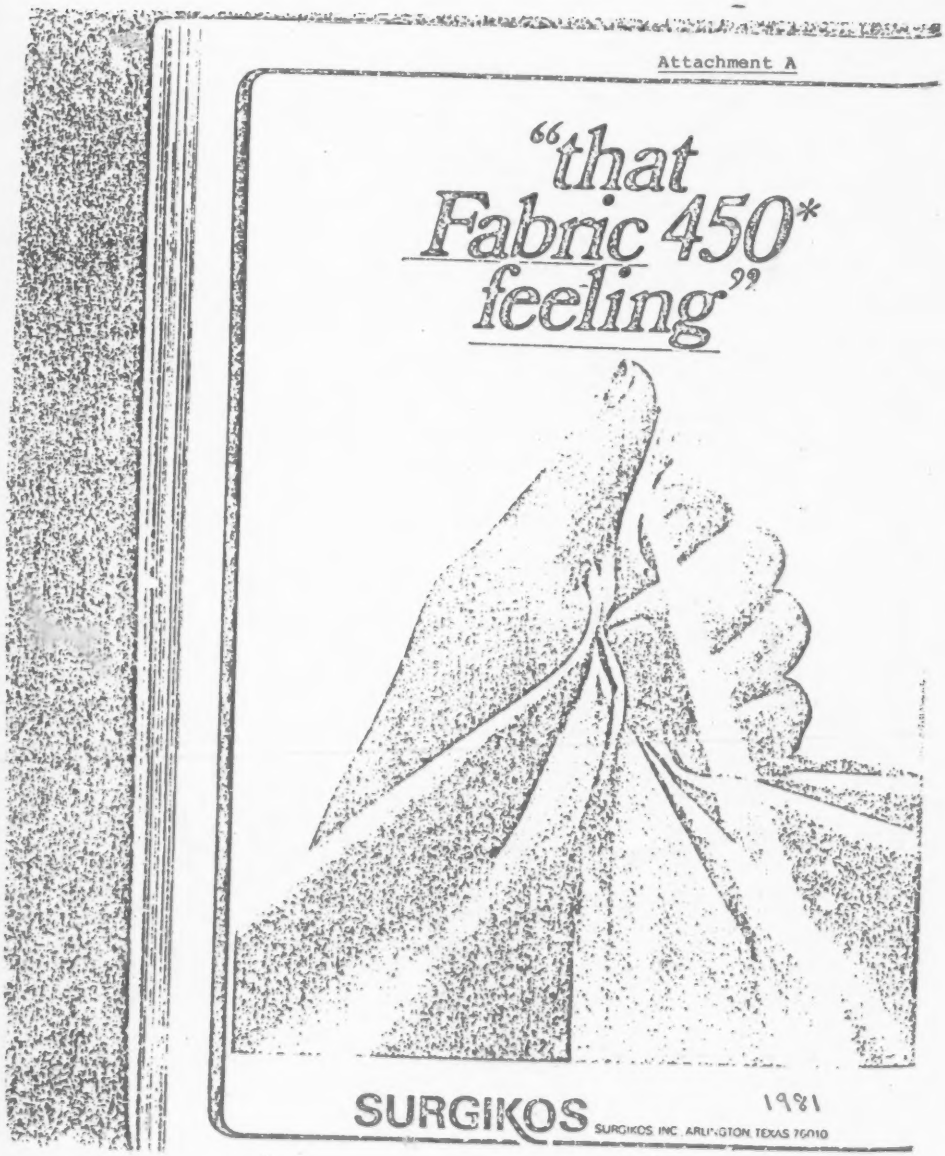


Figure 1. New impervious reinforcement in BARRIER Extra Protection and Ultra Protection Gowns.

1987

*Trademark

Attachment A



Attachment A

That feeling of security

FABRIC 450* effectively resists bacterial migration,[1] and it has the strength to withstand the stress and strain of today's surgical procedures.

You can't be as confident with cotton. Strike-through and resulting bacterial migration with cotton are well documented,[1] and cotton sheds 10 times as many airborne organisms as disposables.[2] But most important, disposables result in a significantly lower rate of postoperative infection.[3] You'll prefer the security of that FABRIC 450* feeling.

That feeling of comfort

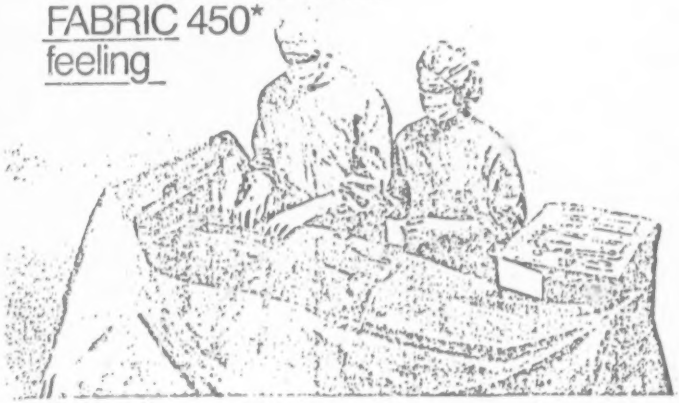
The keys to FABRIC 450* comfort are coolness and breathability. You'll appreciate our gowns. Especially during an extra-long procedure.

... The drapes are soft and linen-like. They unfold without rustling and conform naturally to any shape. The low-glare color is easy on your eyes.

References

1. Schwartz J, Saunders D: Microbial penetration of surgical gown materials. *Sur Gyn & Ob* 150:507-512, 1980.
2. Dineen P, McSherry C. Control of operating room environment contamination with disposable materials. Scientific Exhibition, Cornell Medical Center, NY, 1971.
3. Moylan JA *et al*.: The importance of gown and drape barriers in the prevention of wound infection. *Sur Gyn & Ob* 151:465-470, 1980.

Only BARRIER* Packs and Gowns offer that FABRIC 450* feeling



*Trademark © BURCHMOS 1981 8-0274

Attachment A

BARRIER* PROCEDURAL PACKS

The Procedural Side

BARRIER Procedural Packs meet specific surgical needs. For each discipline there's a pack that includes drapes and gowns. *Plus* many packs contain extras to boost efficiency—like non-slip instrument pads, sponges, cord holders, suction tips and tubing, BARRIER Incise Drapes, BARRIER Impervious Stockinets, BARRIER Tape Strips, DISCARD-A-PAD* Sharps Disposal Systems, and SURGIKOS* Electro-Surgical Tip Cleaners.

Promoting proper technique is the essence of BARRIER design from the way a pack opens to how the drapes unfold.

The Safety Side

Our exclusive FABRIC 450* and DRISITE* Fabric Reinforcement reduce the risk of infection by isolating and protecting the surgical team and the patient. FABRIC 450* provides more than security; it's soft and cool to wear, and as conformable as linen. Around the incision site, absorbent and impervious DRISITE controls run-off and prevents strike-through.

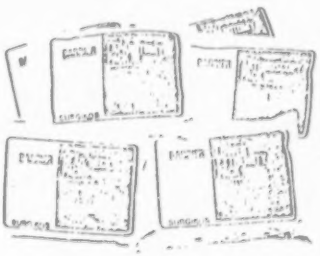
The unique folds of the overwrap/tablecover, gowns, and drapes facilitate aseptic handling. And the need to open only one package per procedure presents less risk of contamination than when several packages must be opened.

The Cost Side

When BARRIER Procedural Packs reduce draping time, the next case can start sooner. Our packs also spare you a lot of record keeping by establishing a single draping cost per procedure and simplifying inventory control.

BARRIER PROCEDURAL PACKS

Surgical Discipline	Code	Pack
Eye, Ear, Nose, Throat	1292	BARRIER Head/Neck Pack
	1243	BARRIER Laparotomy Pack III
General Surgery	1247	BARRIER Abdominal Pack
	1248	BARRIER General Surgery Pack
Gynecology	1252	BARRIER Laparoscopy Pack
	1253	BARRIER Gynecology Pack I
	1254	BARRIER Gynecology Pack II
	1257	BARRIER Gynecology Pack
Obstetrics	1231	BARRIER Obstetrical Pack
	1234	BARRIER Delivery Room Pack
Orthopedic	1290	BARRIER Lower Extremity Pack
	1291	BARRIER Hip Pack
	1262	BARRIER Ortho Minor Pack
	1263	BARRIER Arthroscopy Pack
Urology	1223	BARRIER Cystoscopy Pack III
Basic Packs	1270	BARRIER Basic Pack
	1285	BARRIER Basic Pack III
	1264	BARRIER Set Up Pack II
	1297	BARRIER Minor Pack



*Trademark © SURGIKOS 1981 S-6277

JOHNSON & JOHNSON BARRIER*
CATALOG MATERIAL, DATED 1974

Attachment A

BARRIER*- the effective surgical gown

The BARRIER Surgical Gown does what is was designed to do. It reduces the risk of spreading bacteria from a septic to an aseptic zone.

The advanced design BARRIER material reduces the risk of infection in two ways:

(a) Moisture-repellent fabric prevents the soak-through of fluids and the accompanying migration of microorganisms.

(b) The tightly-textured, nonwoven fabric reduces airborne bacteria by more effectively containing shed skin particles.

In addition, the BARRIER Surgical Gown provides these benefits to the surgical team:

- Soft, supple material is cool and comfortable even during prolonged procedures.
- Fine, even, double-needle stitching in the sleeve holds consistently under stress.
- BARRIER Gowns free laundries from processing, mending and autoclaving while providing surgeons and nurses with new, lightweight, attractive gowns, guaranteed sterile, for each surgical procedure.

* Trademark of Johnson & Johnson

ATTACHMENT B

Revised April 25, 1983

Market Share	Company	Components of Hospital Drape and Gown Products	Assembly Location	TSUS Item #	1983 Tariff Rate
42%	American Convertors (Division of American Hospital Supply Corp.)	1) SONTARA -- 45-55% polyester, 45-55% wood pulp	Mexico	256.8780	5.6% ad val.
		2) REGARD/KAYCEL -- 95% wood pulp, 5% nylon scrim	Mexico	256.8780	5.6% ad val.
		3) DEXTER -- 0-50% polyester, 50-100% wood pulp	Mexico	256.8780	5.6% ad val.
		4) TYVEK -- 100% spunbond polyethylene	Mexico	379.9601	16¢ per lb + 24% ad val.
				383.9205	16¢ per lb + 24% ad val.
25%	Surgikos Inc. (Division of Johnson & Johnson)	1) FABRIC 450 -- 45-55% polyester, 45-55% wood pulp	Mexico	256.8780	5.6% ad val.
12%	Procter & Gamble	1) BOUNDARY (FABRIC III) -- 60-70% wood pulp, 30-40% spunbond nylon	Dominican Republic and Huntsville, Alabama	GSP	Free
3%	Kimberly-Clark Corp.	1) KIMGUARD -- 100% spunbond polypropylene	Mexico	379.9601	16¢ per lb + 24% ad val.
				383.9205	16¢ per lb + 24% ad val.
				389.6265	16¢ per lb + 13% ad val.
		2) SPUNGUARD -- 100% spunbond polypropylene	Mexico	379.9601	16¢ per lb + 24% ad val.
				383.9205	16¢ per lb + 24% ad val.
				389.6265	16¢ per lb + 13% ad val.
		3) KAYCEL -- 95% wood pulp, 5% nylon scrim	Mexico	256.8780	5.6% ad val.

Market Share	Company	Components of Hospital Drape and Gown Products	Assembly Location	TSUS Item #	1983 Tariff Rat
5%	Work Wear Corp., Inc. (includes former Mars and Will Ross Companies)	1) KAYCEL -- 95% wood pulp, 5% nylon scrim	Mexico	256.8780	5.6% ad val.
		2) DEXTER -- 0-50% polyester, 50-100% wood pulp	Mexico	256.8780	5.6% ad val.
5%	Kendall Company (Division of Colgate -Palmolive Company)	1) TYVEK -- 100% spunbond polyethylene	U.S.	None	None
		2) KAYCEL -- 95% wood pulp, 5% nylon scrim	U.S.	None	None
2%	Tekna-Med	1) KAYCEL -- 95% wood pulp, 5% nylon scrim	Dominican Republic and Columbus, Miss.	GSP	Free
		2) DEXTER -- 0-50% polyester, 50-100% wood pulp	Dominican Republic and Columbus, Miss.	GSP	Free
1%	General Econo-Pak	1) KAYCEL -- 95% wood pulp, 5% nylon scrim	U.S	None	None
		2) GEORGIA-PACIFIC -- 95% wood pulp, 5% nylon scrim	U.S.	None	None
		3) DEXTER -- 0-50% polyester, 50-100% wood pulp	U.S.	None	None
5%	All Other	--	--	--	--

-- Some of these products contain binders and other treatment chemicals not included in the fiber percentages.
-- Kimberly-Clark, duPont, Dexter, and Procter and Gamble are the primary producers of the component disposable base sheet for these hospital gowns and drapes. All of the base sheet is manufactured in the U.S.

Source of market share data: Hospital Supply Index - IMS America, 4th Quarter 1982 Report (covers 12 month period). These shares are comprised of disposable surgical gowns, and surgical packs and parts (drapes). Market share percentages represent the share of dollars.

Chairman GIBBONS. Thank you. Do any of the other witnesses want to be heard at this time?

[No response.]

Chairman GIBBONS. Mr. Frenzel.

Mr. FRENZEL. Might I ask why you chose a 5-year term rather than a permanent change?

Mr. RIETER. We feel this will give us an opportunity to evaluate our investments and also to determine whether this is a business that will be profitable for Kimberly-Clark in that time period. We need 5 years to make a good business decision.

Mr. FRENZEL. And this bill is more tightly drawn than last year's bill?

Mr. RIETER. Indeed so.

Mr. FRENZEL. Last year you included industrial apparel?

Mr. RIETER. I do not believe we have ever included industrial apparel, but we included hospital apparel last year. This year we are focusing strictly on disposable surgical drapes and sterile gowns. We did not include anything that is related to industrial apparel in either case.

Mr. FRENZEL. Thank you.

Chairman GIBBONS. Thank you very much.

Mr. RIETER. Thank you, Mr. Chairman.

Chairman GIBBONS. We will go next to H.R. 2265, by Mr. Downy, regarding the temporary duty reduction on caffeine, and we have here Mr. Donald Alexander, who is counsel for Knoll Fine Chemicals.

Mr. Alexander, we welcome you. You may proceed.

STATEMENT OF DONALD C. ALEXANDER, COUNSEL, KNOLL FINE CHEMICALS

Mr. ALEXANDER. Thank you, Mr. Chairman. I understand my statement will be made a part of the record.

Chairman GIBBONS. Yes, sir, it will.

Mr. ALEXANDER. Mindful of the time of this committee, I will not read any of it.

I am here in support of, as you pointed out, sir, H.R. 2265, a bill introduced by Mr. Downey and Mr. Frenzel to remedy an error that was made back when the MTN translated 25 cents into 42 cents in the ad valorem equivalent of duty on caffeine.

Now, last year we proposed a permanent solution. However, it was agreed that there would be a temporary stop gap solution reducing the rate to 6 percent for 1 year, to find out whether the European Community would cooperate. The European Community promptly did cooperate, reducing their duty to 6 percent for 1 year, matching ours.

We have had discussions with STR and Commerce about this, and as a result of those discussions, I think you heard their views that there was no objection to the bill, H.R. 2265. The bill would reduce the duty on caffeine to 4.1 percent. A rate of 4.1 percent was determined by STR to be the final staged reduction which would be reached if a true ad volorem equivalent to the former specific rate of duty had been established. The reduction would last for a period of 2 years, giving the European Community time to show

the same degree of cooperation that they have already shown. We have every reason to believe that they will cooperate and make a similar reduction in their duty.

Now, Pepsico, which is a major purchaser of caffeine, has submitted a letter in support of this bill. The bill would have no adverse effect, as we see it, on any domestic producer, because the only domestic producer can supply only half the market at maximum. We hope this subcommittee will act favorably on this bill.

I would be glad to answer any questions you have.

[The prepared statement follows:]

STATEMENT OF DONALD C. ALEXANDER, MORGAN, LEWIS & BOCKIUS, WASHINGTON, D.C., REPRESENTING KNOLL FINE CHEMICALS

SUMMARY

The purpose of this testimony is to support H.R. 2265, sponsored by Reps. Downey and Frenzel, which provides a reduction in the duty for caffeine to 4.1 percent ad valorem for 1984 and 1985.

Last year, the Committee approved legislation reducing the caffeine duty from 8.0 percent to 6.0 for 1983. At the request of the Administration and the only domestic producer of synthetic caffeine, further reductions were contingent upon the willingness of the European Community ("EC") to reduce its caffeine duty from 10.4 percent ad valorem to 4.1 percent.

The EC has reduced its duty to 6.0 percent for 1983, matching the U.S. reduction. The EC has indicated willingness to reduce its duty to 4.1 percent if the U.S. takes action to reduce its duty to 4.1 percent.

This legislation will not harm the domestic producer and offers an opportunity for the domestic producer to expand its market if it so desires.

STATEMENT

My name is Donald C. Alexander. I am a partner in the Washington office of Morgan, Lewis & Bockius. I am appearing today in behalf of Knoll Fine Chemicals ("Knoll"), a division of Knoll Pharmaceutical Company, a New Jersey corporation. Knoll is engaged in the importation, sale and distribution of pharmaceutical chemicals, including caffeine, manufactured by Knoll A.G., a West German producer of pharmaceuticals and specialty chemicals.

I am appearing today in support of H.R. 2265 which would reduce the duty on caffeine (TSUS Item 437.02) to 4.1 percent ad valorem for 1984 and 1985. Knoll imports synthetic caffeine into the United States. Caffeine is used in the production of various cold and allergy remedies to counteract drowsiness, as well as in the production of soft drinks. In enactment of The Customs and Tariff Amendments (H.R. 4566) last year, this Committee adopted a temporary duty reduction for caffeine to 6.0 percent ad valorem for 1983. The scheduled rate for 1983 was 8.0 percent.

Last year this Committee had under consideration a bill to provide a permanent duty reduction for caffeine. The permanent duty reduction was intended to establish the staged ad valorem rates for caffeine which would have existed if the July 1, 1980 conversion to ad valorem rates had been based upon a true ad valorem equivalent to the former specific rate of duty. We presented a detailed analysis of the reasons for a permanent duty reduction in our testimony last year. I will not repeat that analysis here, but will simply summarize the history leading to the introduction of H.R. 2265.

The scheduled duty rate in effect prior to the enactment of the 1982 Customs and Tariffs Amendments was derived from the conversion of caffeine's former specific rate of duty of 25 cents per pound to a purported ad valorem equivalent of 10.4 percent of July 1, 1980, pursuant to the 1979 Multilateral Trade Negotiations ("MTN"). The ad valorem "equivalent" of 10.4 percent actually produced a duty significantly higher than 25 cents per pound. At the date of conversion, July 1, 1980, an ad valorem rate of 10.4 percent produced a duty of 42 cents per pound—a 68 percent increase over the former specific rate.

At the time the decision was made to convert to ad valorem rates, the U.S. also agreed to staged reductions of these rates with the final staged reduction occurring in 1987. The final staged ad valorem rate for caffeine was to be 6.0 percent. Four staged reductions have been taken: July 1, 1980; January 1, 1981; January 1, 1982;

and January 1, 1983; placing the 1983 scheduled rate for caffeine at 8.0 percent. Despite these staged reductions, Department of Commerce data for 1982 show that the average caffeine duty paid in 1982 was about 31 cents per pound. Our calculations show that had an actual ad valorem equivalent been in effect, the 1982 duty would have been approximately 20 cents per pound. Department of Commerce data for 1983 show that the temporary rate of 6.0 percent has resulted in an average duty to date of about 22 cents per pound. However, our calculations show that if this reduction to the final MTN staged rate had been based upon a true ad valorem equivalent to 25 cents per pound, today's duty would be 14 cents per pound.

The Administration opposed the permanent duty reduction legislation last year based upon the desire of the only domestic producer of synthetic caffeine to obtain a reciprocal duty reduction from the European Comunity ("EC"). Rather, the Administration proposed a one-year reduction to 6.0 percent, the final MTN staged rate, with a future reduction contingent upon a reciprocal duty reduction by the EC. The Administration determined that a true ad valorem equivalent for caffeine would produce a final staged rate of 4.1 percent. Under the Administration's proposal, the EC had to agree in 1983 to reduce its duty of 10.4 percent to 4.1 percent by 1987. The Administration stated that if the EC agreed to such a reduction, the Administration would support legislation providing for a permanent matching U.S. duty reduction. Knoll agreed to work within the EC for a reciprocal duty reduction.

Shortly before the passage of the 1982 Customs and Tariff Amendments last December, the EC reduced its caffeine duty to 6.0 percent for 6 months. As soon as the EC learned of the enactment of the 1982 Customs and Tariff Amendments, it made the 6.0 percent rate effective for all of 1983. In January 1983, we met with STR representatives to determine the best way to achieve a permanent duty reduction. At that time, the Administration had planned to attempt to work out a bilateral U.S.-EC reduction to 4.1 percent. However, in early March 1983, we learned that the bilateral U.S. to EC approach would be too cumbersome to be completed in 1983. The caffeine duty reduction is being handled by a special EC Committee which is in a position to move more quickly than bilateral negotiations. We have been advised that if the U.S. took action to reduce its duty to 4.1 percent effective January 1, 1984, we could expect the EC to reduce its duty to 4.1 percent beginning in 1984.

STR representatives agreed that the bilateral approach could be time-consuming and stated that STR would support a legislative approach if such approach would produce a reciprocal duty reduction.

The bill pending before the Committee, H.R. 2265, is a response to the EC's request for quick U.S. action. The bill provides a temporary duty reduction to 4.1 percent for two years. We believe two years is long enough to demonstrate the good faith of the U.S.

We do not believe this legislation will be harmful to the domestic producer of synthetic caffeine. Our estimates indicate that the domestic producer has the capacity to supply only about one-half of the U.S. market for synthetic caffeine. If the temporary reduction to 6.0 percent is allowed to expire and the scheduled rate is reimposed, American consumers of caffeine will be forced to pay a higher price since the imported product is necessary to meet U.S. demand which cannot be met by domestic production. Moreover, an EC reduction in the caffeine duty would provide a new opportunity for the U.S. producer to expand its market if it so desires. In any event, this legislation only provides a temporary reduction. If the EC fails to act, the U.S. duty will revert to its staged level.

We believe the prospects are good that the EC will approve a reduction to 4.1 percent effective January 1984 if the U.S. evidences willingness to make a permanent reduction to 4.1 percent beginning in 1984.

Chairman GIBBONS. Thank you, Mr. Alexander. I remember the bill from last year.

Mr. Frenzel.

Mr. FRENZEL. I just wonder if you still want to go ahead with it, having seen all of 7-Up's advertising. [General laughter.]

Mr. ALEXANDER. I have seen all of 7-Up's advertising, and I think the bill is even more necessary than it was before. Taking Pepsico, which of course has produced a caffeineless drink, it has not eaten into the market for their drinks with caffeine, and I am not at all sure of 7-Up's success in marketing their particular product. Although they produce many fine products, it so happens that the one they seem to be pushing and advertising is not selling very

widely. Maybe people need to try to stay awake at hearings and otherwise. [General laughter.]

Chairman GIBBONS. Could you supply a couple of tons of that for us? [General laughter.]

Mr. ALEXANDER. Mr. Chairman, you and Mr. Frenzel have exhibited great patience, and I think you deserve to have some caffeine brought into your life. [General laughter.]

Mr. FRENZEL. Well, it is nice to have one of our favorite tax collectors back with us, even if he was not as good a quarterback as Mr. Rosites.

Mr. ALEXANDER. Thank you. I certainly was not as good a quarterback as Mr. Rosites, and of course I am a former tax collector. Tax collectors can, like other sinners, be redeemed. [General laughter.]

Chairman GIBBONS. Thank you.

Mr. FRENZEL. That is true of everything but Senators. [General laughter.]

Chairman GIBBONS. Mr. Panetta is on his way here for this hearing, so we will just kind of sit in informal recess until Mr. Panetta gets here.

[Pause.]

Chairman GIBBONS. We will have to proceed. When Mr. Panetta arrives we will take him. In the interim, we will take witnesses from Roses, Inc., Mr. Krone, the executive vice president, will be accompanied by Mr. Eugene Stewart, counsel, and Mr. C. Richard Wright, president.

I am sure Mr. Panetta will be here in a few minutes.

STATEMENT OF JAMES C. KRONE, EXECUTIVE VICE PRESIDENT, ROSES, INC., ACCOMPANIED BY C. RICHARD WRIGHT, PRESIDENT; AND EUGENE L. STEWART, COUNSEL

Mr. KRONE. Good afternoon, Mr. Chairman.

Chairman GIBBONS. Good afternoon. We are sorry you had to wait so long.

Mr. KRONE. That is quite all right. It is a matter of importance to us, and we are pleased to wait.

My name is James Krone, executive vice president of Roses, Inc., the commercial rose growers' association representing over 80 percent of the greenhouse rose growers in the United States.

I am very grateful for having the opportunity to appear before this committee on behalf of Roses, Inc., and its members, to express our support for H.R 1146. This bill, of course, will align the U.S. tariff rates and fresh cut rose marketing with the current tariffs being imposed by the European Economic Community.

I am accompanied by Mr. C. Richard Wright of Utah Roses, Inc., Sandy, Utah, who is the current national president of Roses, Inc., and a commercial rose grower, and Mr. Eugene Stewart, an attorney with the offices in the city, offices of——

Chairman GIBBONS. Yes, sir. We are very well acquainted with Mr. Stewart, and have great respect for his professional abilities.

Mr. KRONE. Thank you. We certainly agree on that. I think he probably was before you or perhaps his son was when we participated in the hearing on trade remedies in April.

Chairman GIBBONS. That is correct.

Mr. KRONE. That was a very interesting proceeding which I have had a chance to see a little of. Certainly they are both available with me to answer questions following my testimony, and to pick up pieces I may have missed along the way.

In my statement, I do have attached a brief which I will not review in detail with you, but ask that it be filed, and I will only highlight a few points from it which I think are most important.

Chairman GIBBONS. Yes, sir. All of your testimony will be included in the record without objection.

[The prepared statement with attachments follows:]

STATEMENT OF JAMES C. KRONE, EXECUTIVE VICE-PRESIDENT, ROSES, INC.

My name is James C. Krone, executive vice president of Roses Incorporated, the commercial rose growers association, representing over 80 percent of the greenhouse rose growers in the United States.

I am very grateful for having the opportunity to appear before this committee on behalf of Roses Inc. and its members to express our support for H.R. 1146.

This bill will align U.S. tariff rates and fresh cut-rose marketing with those currently being imposed by the European Economic Community.

I am accompanied by Mr. C. Richard Wright of Utah Roses, Inc., Sandy, Utah, who is the current national president of Roses Inc., and a commercial rose grower; and Mr. Eugene L. Stewart, an attorney with the offices of Eugene L. Stewart, a law firm located in this city. Following my testimony, both of these gentlemen will be glad to answer any questions you may have regarding our position favoring this legislation, our industry, or greenhouse rose production.

Attached to this statement is a copy of a "briefing document" that covers these key points:

1. Our rose tariff legislative efforts from the last session of Congress, including a list of the sponsors and cosponsors on the bill in the last session.

2. It notes that in the two-year period 1980 to 1982, fresh rose imports increased a total of 106.3 percent! In the case of imports from Holland, they jumped a whopping 174.9 percent, and from Colombia 111.4 percent! At the same time, the import share of U.S. consumption grew from 9.4 percent in 1980, to 16.7 percent in 1982!

3. U.S. domestic rose production and sales have declined, or remained static, in contrast to the dynamic rate of increase in imports of roses.

4. For the period 1980–1982, domestic growers of roses were regularly undersold by imports by a margin of about 4 cents per stem.

5. It notes that similar cut flowers, such as the carnation and pompon chrysanthemum, have suffered severe injury from imports with importers holding 60 percent of the market, and the rose appears to be on a very similar track.

6. The domestic rose growers have been seeking relief through legal law remedies to be provided by Congress, but with rate exception, our efforts in this area since 1977 have brought little results. As these "legal remedies" grind slowly through the administrative mazes and courts, we continue to lose market share, and fine it very difficult to keep industry enthusiasm and funding for such hollow results. The briefing document follows each of these efforts in detail, and I urge you to relieve with us all of those past, painful and expensive days by reading this section with great care!

7. And, through the expertise of counsel, the document addresses the question of our U.S. GATT obligations, showing clearly that Congress can adjust a tariff, as we request, and that it is, by no means, automatic or certain the United States would be obligated under the trading rules of the Agreement to grant compensation to supplier countries belonging to the GATT if duties on roses are raised.

In my opinion, the document attached does an excellent job of explaining our position, past, present and future, related to this issue.

For that reason, I will not review each of those items in a play-by-play or instant replay fashion.

Instead, I will urge you to give it your very careful consideration and review, and then I will proceed to tell you, not about what we have been unable to get accomplished, but, rather, what our industry has been doing beyond just coming to Washington, seeking import relief.

In 1977, after our association's participation in a most unsuccessful 201 Escape Clause Action, we stepped back to look carefully at our future.

We saw rising costs. Energy and inflation were chewing hard on member firms' overhead costs, and, with a perishable product, with an elastic demand, it appeared we would have a hard time passing added costs through to our customers, the wholesale and retail florists.

Imports on other cut flowers were cutting the heart out of their markets, and we could see the handwriting on the wall for the rose industry.

Member firms in the previous ten years have had, at best, a very flat sales picture. Imported roses are appealing to the floral wholesalers as they can be bought at prices lower than domestic roses, and sold at prices equal to that of the domestic crop, giving the wholesaler and retailer of our industry an added margin of profit.

This is certainly a situation that forecasts hard times and declining market share for the U.S. rose grower.

The answers we found in earlier days are still valid today. Those answers required the U.S. rose industry to do, as follows:

A. Expand total U.S. consumption of roses, selling the imports, if necessary, to insure at least maintenance of our market share.

B. Cut our cost of operation in the greenhouse.

C. Conduct an active program to protest—at every "ear"—the import invasion.

D. Through meetings and written communications, keep our members informed and active so they can take advantage of the association's and the industry's efforts.

By bringing together members and dollars, backing them up with professional marketing research, we found out more about our consumer, and targetted in on him with a professional public relations program. The results have been very much worth the investment! Our domestic rose sales have held at about 425,000,000 for the past ten years, with the additional import of 45-million roses in 1980, 67-million in 1981, and 94-million in 1982, being sold by our efforts.

Had we not been able to sell more roses, we most certainly would now be experiencing a much greater loss of market to the importers than the present 16.7 percent we now show.

Please keep in mind, our domestic rose sales have been relatively static at 425-million blooms for over ten years, so the advent of imports would certainly have eaten into our market share if we had not started our promotion program.

I do hasten to point out, however, that even with this effort, we are still losing market share each year! Being undersold by 4-cents per stem by countries who subsidize their growers and protect them with tariffs, spells a competitive situation far from fair.

In our efforts to reduce costs, we addressed the problems through research funded with seed monies from our industry. Investigations were aimed at cutting costs by reducing energy consumption and increasing production within the U.S. greenhouse.

Again, the efforts of these small agribusiness "Mom and Pop" greenhouses paid off. Researchers have designed systems which allow today's rose grower to operate, using 40 to 60 percent LESS units of fuel than five years ago! In fact, one researcher is designing a system which he feels will exceed 90 percent energy efficiency!

At the same time, projects on plant nutrition, breeding, insect and disease control, make their contributions, and we hear growers talking about increases per square foot in rose production of over ten percent.

Good ole Yankee ingenuity, combined with stubborn pride, and the willingness to gamble scarce family assets on research and promotion, are letting us keep most heads above water.

In spite of the successes, we have not found a way to slow the rate of rose imports, nor can we manage to meet their margin of underselling. Our Washington efforts have been atomic in proportions for a small group of 200 or so growers, but, the results still escape us.

Certainly, we will continue to promote, research and educate ourselves to be better competitors, but, I fear the bottom line for our industry will be, at last, written in Washington simply because we cannot continue to sustain these programs and compete against foreign growers who come to our U.S. with subsidized products and unfair tariff barriers.

Of interest, up through 1939, we saw rose tariffs at a 40 percent level. At that time, they were reduced to 25 percent, and then steadily negotiated downward to 12 percent in the early 50's, ten percent in the early 60's, and to our present 8 percent in late 1979.

As our tariffs were lowered, we saw little change in the EEC levels. In fact, their only concession since the establishment of their 24 percent growing season system was the reduction of their nongrowing season level from 20 percent to 17 percent some years ago.

In late 1981 and early 1982, an effort was made by the Society of American Florists to get the EEC to lower their present tariffs to match our 8 percent. The effort brought no results, thus signalling their continued lack of cooperation in this regard, and triggered our request for parity through this legislation.

In some respects, we come to our elected representatives in the Congress asking help. On the other hand, I believe we are victims of a situation not of our making, and we do not ask for subsidies of food, money, relief plans or price supports.

All we want is a fair place to compete, and if we cannot grow the best rose at the best price, and put it into the market at the time it is needed, in a truly fair market place, then we will shut up, go home and find another way to make a living.

Do understand, clearly, however, just exactly how fragile and import sensitive the rose market is.

We have no secondary market. We cannot freeze, dry, can or preserve our roses. They are grown to be sold fresh, and we have a very narrow market window through which we must present our roses for sale. If we find great quantities of low priced, subsidized roses from offshore growers in the market when we arrive, we must accept distress prices, or no sale and a list crop that we can neither sell to the government nor claim on insurance.

At the same time, we produce our roses in a totally enclosed environmentally controlled greenhouse structure specific to rose production. It is a single-use structure. It makes a very poor office building, post office, or grocery store. If we cannot grow roses in it, we probably have little choice but to tear it down in order to reuse the land. Of course, there is always the possibility that we could shift to other crops, but, certainly, growing pompon chrysanthemums, or carnations, would not make good sense because they are already impacted by imports and are still losing ground. Shifting to flower or foliage plants is of little interest because the mum and carnation growers who could manage have moved into those crops years ago, and there is little room left for the rose grower.

The grim reality of it all tells these small family owners that their primary asset is a millstone around their necks.

To the fourth generation in the flower business, this situation seems extremely sad. Many of the firms I represent here today have sons and daughters active in the family business and these firms represent the life, future and retirement for a rare breed of agriculturists who make a living out of fooling Mother Nature every day of the year.

It would seem to me that these dynamic, hard working, independent businessmen have a very worthwhile contribution to make to this country, and they are very much alive and capable of continuation—if they can have but a small bit of fairness and equality in their market place.

H.R. 1146, as introduced by Congressman Leon E. Panetta, will accomplish this purpose, and, as it does not set any quotas, I cannot see how it will adversely affect the supply of roses for the wholesaler, retailer, or consumer.

Also, with a regular margin of underselling already established by the importers, and, as I don't recall ever seeing domestic and imported roses, carnations or mums being offered at differing prices, I assume that any tariff increases would probably be absorbed in the distribution fabric of the industry, and not passed on to the consumer.

For these reasons and those included in our attached briefing document, the domestic rose growers request that you, Mr. Chairman, and the members of this great Subcommittee, move to act favorably on this legislation at the earliest possible date.

Briefing Document
1983 Update of the Justification for the Roses Tariff Legislation
H.R. 1146, 98th Congress
(co-sponsored by Congressmen Panetta, Schultze, Lantos, and Mineta)

I. Introduction.

With the adjournment of the 97th Session of the Congress, all legislation then pending lapsed. When the first session of the 98th Congress was convened in January 1983, the only legislation to come before the Congress will be the new bills which have been, or will be, introduced, or reintroduced, in 1983.

Thus, the roses tariff bills (H.R. 6239 and S. 2466) which were the subject of so much activity by domestic growers, and corresponding attention by their Congressmen and Senators in the 97th Congress in 1982, died with the 97th Congress. To receive attention by the 98th Congress, the bill will have to be reintroduced. So, the process of requesting members of the House of Representatives and of the Senate to sponsor and cosponsor the introduction of the bill in the current session of the Congress must begin all over again.

A start has already been made in the House: In the first session of the 98th Congress, four key cosponsors of the legislation last year have reintroduced the roses tariff bill: H.R. 1146, 98th Congress. In doing so, they incorporated certain clarifying technical amendments suggested by the staff of the U. S. International Trade Commission.

II. The sponsors and cosponsors of the roses tariff bill in 1982 should be recontacted and asked to reintroduce the bill in its pending H.R. 1146 version as sponsors or cosponsors in the current session of the Congress. The following list is of the sponsors of the roses tariff legislation in 1982 (including deletion of Congressmen who did not return to the 98th Congress, with an indication of the name of their successor).

House of Representatives: Sponsors & cosponsors of H.R. 6239.

1. Cong. Panetta	Dem., Calif., 16th Dist., original sponsor
2. Cong. Lantos	Dem., Calif., 11th Dist., original co-sponsor
3. Cong. George Miller	Dem., Calif., 7th Dist.
4. Cong. Tony Coehlo	Dem., Calif., 15th Dist.,
5. Cong. Pete Stark	Dem., Calif., 9th Dist.,
6. Cong. Norman Mineta	Dem., Calif., 13th Dist.,
7. Cong. Kennelly	Dem., Conn., 1st Dist.,
8. Cong. Daniel Akaka	Dem., Hawaii, 2d Dist.,

9.	Cong. David Bonior	Dem., Michigan, 12th Dist.,
10.	Cong. D'Amours	Dem., New Hamp., 1st Dist.,
11.	Cong. Lundine	Dem., N.Y., 39th Dist.,
12.	Cong. Tom Downey	Dem., N.Y., 2d Dist.,
13.	Cong. Mottl	Dem., Ohio, 23d Dist.,
	succeeded by	
	Cong. Edward Feighan	Dem., Ohio, 19th Dist.
14.	Cong. Oakar	Dem., Ohio, 20th Dist.,
15.	Cong. Robert Mollohan	Dem., W.Va., 1st Dist.,
	succeeded by	
	Cong. Alan B. Mollohan	Dem., W.Va., 1st Dist.,
16.	Cong. Hendon	Rep., N.C., 11th Dist.,
	succeeded by	
	Cong. James McClure Clarke	Dem., N.C., 11th Dist.
17.	Cong. Jim Coyne	Rep., Pa., 8th Dist.,
	succeeded by	
	Cong. Peter Kostmayer	Dem., Pa., 8th Dist.
18.	Cong. Nelligan	Rep., Pa., 11th Dist.,
	succeeded by	
	Cong. Frank Harrison	Dem., Pa., 11th Dist.
19.	Cong. Robert Lagomarsino	Rep., Calif., 19th Dist.
20.	Cong. McKinney	Rep., Conn., 4th Dist.
21.	Cong. Hyde	Rep., Ill, 6th Dist.
22.	Cong. Horton	Rep., N.Y., 34th Dist.
23.	Cong. Bill Carney	Rep., N.Y., 1st Dist.
24.	Cong. Schulze	Rep., Pa., 5th Dist.
25.	Cong. Marriott	Rep., Utah, 2nd Dist.
26.	Cong. Goodling	Rep., Pa., 19th Dist.,

Senate: Sponsors & cosponsors of H.R. 6239.

1.	Senator Hatch	Rep., Utah, original sponsor
2.	Senator D'Amato	Rep., N.Y., original cosponsor
3.	Senator Heinz	Rep., Pa.
4.	Senator Garn	Rep., Utah, original cosponsor
5.	Senator Bumpers	Dem., Ark., original cosponsor
6.	Senator Cranston	Dem., Calif.
7.	Senator Levin	Dem., Mich., original cosponsor
8.	Senator Hollings	Dem., S.Car.
9.	Senator Durenberger	Rep., Minn.

III. The following members of the Congress were specifically contacted by one or more rose grower constituents, and expressed either affirmative support for the bill, when it reaches the floor of the House or Senate for action, or at least expressed interest in a manner that was not negative or hostile to the bill. They should be recontacted, reminded of their interest in the bill last year, and asked to cosponsor the reintroduction of the bill in the House or the Senate, as the case may be.

	Congressman or Senator	Rose grower contact	Date of last contact
1.	Senator Orrin Hatch Utah, original sponsor	'ick Wright Utah Roses Sandy, Utah	December 1, 1982
2.	Senator Christopher Dodd	A. N. Pierson, Inc.	12-13-82
3.	Senator Lowell Weicker (Connecticut)	Douglas B. Pierson, Pres. Cromwell, Conn.	
4.	Senator John H. Heinz Pennsylvania Co-sponsor in 1982 Member, International Trade Subcommittee, Senate Finance Committee	Roses Inc. Jim Krone	1-17-83
5.	Senator Spark Matsunaga Hawaii Member, Senate Finance Committee	Watanabe Floral, Inc. Russell R. Watanabe Vice President, Production	10-12-82
6.	Senator Robert Dole Kansas Chairman, Senate Finance Committee	John van Hanford Salisbury, N. Car.	December 1983
7.	Senator John Glenn Ohio	Roses Inc. Jim Krone (Gene Endres, (Endres Floral Co. (New Philadelphia, Ohio)	November 1982

	Congressman or Senator	Rose grower contact	Date of last contact
8.	Senator Arlen Specter Pennsylvania	Roses Inc. Jim Krone	August 23, 1982
9	Senator Charles Percy Illinois	Roses Inc. Jim Krone	October 29, 1982
10.	Senator Walter D. Huddleston, Kentucky	Roses Inc. Jim Krone (Carl J. Dreisbach (Carl Dreisbach, Inc. (Patti Horton, (Lakewood Gardens, Inc.	November 12, 1982
11.	Senator Richard Lugar Indiana	Donald M. Feder Crown Point, Indiana	October 7, 1982
12.	Senator Edward M. Kennedy, Mass.	Roses Inc. Jim Krone	November 12, 1982
13.	Cong. Floyd Fithian 2d Dist., Indiana succeeded by Cong. Elwood Hillis, 5th Dist., Indiana (Congressional district redistricted).	Lake Co. Greenhouse Corp Donald M. Feder, Pres.	Oct. 5, 1982
14.	Cong. Phil Crane 12th Dist., Ill. Member, Ways & Means Committee	Roses Inc. Jim Krone	Nov. 3, 1982
15.	Cong. David Dreier Rep., Calif. (first elected to Congress in 1982 for the	Groen Rose Co. Inc. Sylvia Foltz Corp. Treas. 98th Congress)	March 18, 1983 Opposes the roses legislation; has asked the ITC to self-initiate a new investigation.
16.	Cong. Tom Lantos Dem., Calif.	Watsonville Roses, Inc. Roland Obertello	Sept. 30, 1982

IV. The reasons why the Congress should act favorably upon the roses tariff bill.

(1) Imports of roses have continued their rapid rate of increase from the principal supplying countries.

Table 1
U. S. Imports of Hybrid Tea and Sweetheart Roses
(In thousands of blooms)

	From the following supplying countries:						
	Colombia	Israel	Holland	Guatemala	Dom.Rep.	Others	Total
1st Qtr 1980	9,862	1,381	252	183	-	385	12,063
2nd Qtr 1980	9,019	1,971	762	244	74	659	12,729
1st half 1980	18,881	3,352	1,014	427	74	1,044	24,792
3rd Qtr 1980	4,074	316	382	93	225	82	5,172
4th Qtr 1980	12,736	1,423	480	186	469	370	15,664
2nd half 1980	16,810	1,739	862	279	694	452	20,836
Year 1980	35,691	5,091	1,876	706	768	1,496	45,628
1st Qtr 1981	14,770	2,421	869	204	289	500	19,053
2nd Qtr 1981	14,180	2,356	1,352	361	626	646	19,521
1st half 1981	28,950	4,777	2,221	565	915	1,146	38,574
3rd Qtr 1981	9,455	-	576	535	304	345	11,215
4th Qtr 1981	14,525	1,394	436	586	508	287	17,736
2nd half 1981	23,980	1,394	1,012	1,121	812	632	28,951
Year 1981	52,930	6,171	3,233	1,686	1,727	1,778	67,525
1st Qtr 1982	17,724	1,921	761	469	422	778	22,075
2nd Qtr 1982	20,622	2,175	1,799	641	927	845	27,009
1st half 1982	38,346	4,096	2,560	1,110	1,349	1,623	49,084
3rd Qtr 1982	13,173	124	1,829	647	514	581	16,868
4th Qtr. 1982	23,916	1,060	768	822	750	873	28,189
2nd half 1982	37,089	1,184	2,597	1,469	1,264	1,454	45,057
Year 1982	75,435	5,280	5,157	2,579	2,613	3,077	94,141

	From the following supplying countries:						
	Colombia	Israel	Holland	Guatemala	Dom.Rep.	Others	Total
Percent change:							
1980/1981	+48.3%	+21.2%	+72.3%	+138.8%	+124.9%	+18.6%	+48.0%
1981/1982	+42.5%	-14.4%	+59.5%	+53.0%	+51.3%	+73.1%	+39.4%
1980/1982	+111.4%	+3.7%	+174.9%	+265.3%	+240.2%	+105.7%	+106.3%

Sources: 1980 data, USDA, Ornamental Crops National Market Trends, San Francisco, Calif., adjusted for Guatemala, Dominican Republic and Other Countries by U. S. Department of Commerce, IM 145X and U. S. International Trade Commission, Publication 841, November 1981, Table 4; 1981, 1982 data, U.S. Department of Commerce, IM 145X.

(2) U. S. production and sale of roses have declined or remained static in sharp contrast to the dynamic rate of increase in imports of roses.

Table 2
U. S. Production and Sale of Hybrid Tea and Sweetheart Roses

	Year 1980	Year 1981	Year 1982	% change 80-82
Domestic producers (number):				
Hybrid tea roses	234	222	214	-8.6%
Sweetheart roses	222	177	171	-23.0%
Rose plants in production: (000's of plants):				
Hybrid tea roses	16,022	15,234	15,628	-2.5%
Sweetheart roses	3,769	3,347	3,424	-9.2%
Total	19,791	18,581	19,052	-3.7%
Area in production: (000's sq. ft.)				
Hybrid tea roses	23,595	22,921	23,515	-0.3%
Sweetheart roses	5,477	5,071	5,188	-5.3%
Total	29,072	27,992	28,703	1.3%
Rose blooms sold: (000's of blooms)				
Hybrid tea roses	313,631	312,955	321,061	+2.4%
Sweetheart roses	112,036	108,684	111,184	-0.8%
Total	425,667	421,639	432,245	+1.6%

Sources: USDA, Floriculture Crops, Production Area and Sales, 1980 and 1981, intentions for 1982. 1982 data based on intentions for 1982 per source, adjusted by Roses Inc. data on sales of roses in units and dollars.

(3) As a result of the dynamic increase in imports in a relatively static U.S. market, domestic rose growers' share of the U.S. market has sharply declined, while the import market share has climbed steadily.

Table 3
Apparent U.S. Consumption of Fresh Cut Roses,
and the Share of the Market Captured by Imports
at the Expense of the Domestic Rose Growers' Share of the Market.
(Quantities in millions of blooms)

Year	U.S. grower domestic sales	Imports	Apparent U.S. consumption	U.S. grower share of U.S. consumption	Import share of U.S. consumption
1976	460	6	466	98.7%	1.3%
1977	454	10	464	97.8%	2.2%
1978	454	16	470	96.6%	3.4%
1979	482	35	517	93.2%	6.8%
1980	462	46	508	90.9%	9.1%
1981	457	68	525	87.0%	13.0%
1982	469	94	563	83.3%	16.7%

Sources: United States International Trade Commission, Publication 841, November 1981, Table 3 for 1976-1979 data. U.S. rose grower domestic sales 1980 - 1982 based on sales data shown in Table 2, page 6, adjusted by a factor of 1.1103 to expand from the USDA, Floriculture Crops base of the 14 principal producing states to include all 50 states, as per the adjustment made by the U.S.I.T.C. in the cited source for the years 1976-1980. Imports for 1980-1982 from Table 1, page 5, above. Total blooms sold per cited sources reduced by export sales as estimated by the U.S.I.T.C. in cited source for 1976-1980, and for the years 1981-82 by 10 million blooms, based on the U.S.I.T.C.'s estimate for prior year.

(4) The domestic rose growers are being injured by the depression of their selling prices below the levels required to cover increased costs because of being undersold by the imported roses.

Table 4

Average unit realized selling price of domestically grown roses compared with the average unit landed cost of imported roses with indices of inflation in the U.S.

	Year 1980	Year 1981	Year 1982	% change 80-82
Grower's average price on sales at wholesale: (¢ per bloom)				
Hybrid tea roses	27.1¢	28.8¢	30.0¢	+10.7%
Sweetheart roses	19.9¢	19.9¢	21.4¢	+7.5%
Total (weighted average)	25.2¢	26.5¢	27.8¢	+10.3%
Imported roses, average landed, duty paid cost (primarily, hybrid tea roses):	21.2¢	23.0¢	23.9¢	+12.7%
Margin of underselling of domestic by imports:	4.0¢	3.5¢	3.9¢	
Ratio of margin of underselling to imported landed cost price:	18.9%	15.2%	16.3%	
Producer price index pertinent to rose grower operating costs: (1967=100)				
Energy	701.3	835.4	823.4	+17.4%
Containers	254.5	276.1	285.5	+12.2%
Supplies	244.5	263.8	272.2	+11.3%
Chemicals & allied products	260.3	287.6	292.4	+12.3%
Implicit price deflator for gross national product: (1972=100)	178.64	195.51	207.23	+16.0%

Sources: USDA, Floriculture Crops, Production Area and Sales, 1980 and 1981, intentions for 1982. 1982 data based on intentions for 1982 per source, adjusted by Roses Inc. data on sales of roses in units and dollars. Producer price indices and implicit price deflator, per Economic Report of the President, February 1983, Tables B-3, B-57, B-58, B-59.

(5) The steady increase in imports and in the import share of the relatively static U.S. market is parallel to the earlier developments in the carnation and chrysanthemum market. The severe injury suffered by the domestic carnation and chrysanthemum producers is a cogent forecast of the comparable severe injury which the domestic rose growers are currently experiencing, and which they will increasingly suffer if action is not taken by the U.S. government equitably to regulate the importation of roses.

Table 5
Share of the U.S. Market Accounted for
by Imports of Roses, Carnations and Chrysanthemums
(In % of Apparent U.S. Consumption)

Year	Roses	Carnations		Chrysanthemums	
		Standard	Miniature	Standard	Pompon
1976	1.3%	27 "Carnations"		7	33
1977	2.2%	33 "Carnations"		13	37
1978	3.4%	41 "Carnations"		11	41
1979	6.8%	44 "Carnations"		14	48
1980	9.1%	50.3%	48.7%	19.3%	52.4%
1981	13.0%	58.7%	47.3%	19.9%	54.8%
1982	16.7%	60.0%	55.1%	22.3%	58.3%

Sources: United States International Trade Commission, Publication 841, November 1981, Table 3; U. S. Department of Agriculture, Floriculture Crops, March 1982; Marketing California Ornamental Crops, 1981, June 30, 1982; Ornamental Crops, National Marketing Trends, weekly issues, 1982, 1983; Table 3, supra.

(6) The domestic rose growers have been vigilant in invoking the domestic law remedies provided by the Congress to secure an alleviation of the steadily increasing loss of the domestic market to imports, but with one exception those remedies have proved ineffective because of administrative actions which fail to carry out the intent of the Congress.

(a) Escape clause actions.

(i) In 1977, on application of the Society of American Florists, the International Trade Commission carried out an escape clause investigation under Sec. 201 of the Trade Act of 1974 to determine if increased imports of fresh cut flowers were causing or threatening serious injury to the domes;tic floricultural industry. It decided in the negative, in August 1977.

(ii) In November 1979, Roses Incorporated petitioned the Commission to conduct an escape clause investigation to determine if the domestic rose growers were being seriously injured or threatened with serious injury by increased imports of fresh cut roses. In April 1980 the Commission again decided in the negative.

(b) Countervailing duty actions.

(i) In 1974, the Treasury Department conducted a countervailing duty investigation against fresh cut flowers from Colombia, in which it determined that the Government of Colombia was subsidizing its growers with benefits valued at 10.2% of the dutiable value of imports from that country. Countervailing duties were not imposed, however, because the Government of Colombia diverted the funds from the growers to a Government organization to assist the producers in their exports. The industry received no benefit from that investigation, notwithstanding the unfair advantage which the subsidies granted the Colombian flower growers by that Government conferred upon them in competing in the U.S. market.

(ii) In January 1980, the domestic rose growers through Roses Incorporated initiated twin countervailing duty investigations against subsidized exports of roses to the U.S. from the Netherlands and Israel. The Netherlands case was subject to the injury test, but not the Israeli (Israel has not signed the international agreement which requires the U.S. to add the injury test to countervailing duty investigations). The Netherlands case was

washed out by the International Trade Commission in February 1980 with a negative determination of injury. The roses from Israel case matured into a countervailing duty determination of net subsidies of 1.5%. Roses Incorporated appealed that decision to the Court of International Trade which remanded the case to the ITA to reinvestigate three particular subsidies. The ITA did so, and this time found that when correctly investigated, those subsidies amounted to 11.5%. That case is back in court as the domestic growers and importers are further litigating the status of the countervailable subsidies.

(iii) In August 1982, the International Trade Administration initiated a new countervailing duty investigation on roses and other fresh cut flowers (except miniature carnations) from Colombia. In November 1982, the ITA preliminarily determined that the Colombian government was subsidizing its flower growers to the tune of 5% of the value of the product exported to the United States. In January 1983, however, the U.S. Government again deprived their floriculture industries of the corrective benefits against unfair competition from imports by suspending the investigation. The ITA determined not to impose countervailing duties on the basis of a suspension agreement under which the Colombian growers accounting for 85% of exports to the U.S. agreed to renounce the benefits. There is a serious question of whether the ITA can or will effectively monitor this agreement. It seems likely that the U.S. growers will receive no corrective action to offset the unfair pricing advantage which long-continued foreign government subsidies confer upon exports of fresh cut flowers to the United States.

(c) Antidumping duty action.

In June 1981, Roses Incorporated filed an antidumping duty petition against fresh cut roses from Colombia, based upon an independent market research study and information gathered from the domestic growers and Department of Agriculture production statistics, and Department of Commerce import statistics. In June 1981, the Department of Commerce, after ex parte conferences with representatives of the Colombian embassy and the Colombian growers, dismissed the petition without investigation. Roses Incorporated appealed the dismissal to the Court of International Trade, which in April 1982 ruled that the Commerce Department acted unlawfully in refusing to investigate the alleged dumping of Colombian roses into the United States market. The Court ordered Commerce to proceed with an investigation. Instead, Commerce appealed the decision to the Court of Appeals for the Federal Circuit. The case has been briefed and argued, and a decision is

expected late this spring. The dumping margins documented by Roses Incorporated ranged from 6% to 35% of the export value of the imported roses.

(7) The foregoing data show that the U.S. rose producers have a serious problem of unfair and injurious import competition, they have tried quite systematically and energetically to secure a solution to the problem by invoking the domestic law procedures provided by the Congress, they have been denied relief and thwarted by the Executive Branch and the International Trade Commission at every turn, and have nowhere to go now except to the Congress itself for legislation, such as H.R. 1146, to redress their grievances.

(a) The Congress is not deprived of its constitutional power to regulate foreign commerce by the membership of the United States in the General Agreement on Tariffs and Trade.

(i) Article XXIII of the GATT obligates the United States only to "give sympathetic consideration to the representations or proposals" of any other member of the GATT which considers that any benefit to which it is entitled under GATT is being nullified or impaired by legislation, such as H.R. 1146, enacted by the Congress.

(ii) If "no satisfactory adjustment is effected" between the United States and such country, Article XXIII provides that "the matter may be referred to" the contracting parties of GATT for consideration. The contracting parties may authorize the affected country to suspend the application of tariff concessions of equivalent value to that which has been changed by the legislation enacted by the Congress. The GATT Council considers such complaints and appoints a panel of experts to study the complaints and report to the Council with recommendations for consideration of the parties when they fail to achieve a satisfactory settlement of the matter by bilateral discussions. Typically, these studies occupy long periods of time, and usually result in the countries concerned reaching some mutually satisfactory accommodation.

(iii) It is, therefore, by no means automatic or certain that the United States "would be obligated under the trading rules of the Agreement to grant compensation to supplier countries belonging to the GATT if duties on roses are raised". (Letter from Hon. William E. Brock, the United States Trade Representative, April 30, 1982, to Senator Daniel Patrick Moynihan).

(iv) The Committee on Finance, United States Senate, has discussed the criteria which should be applied when the United States has increased tariffs under the escape clause. The same criteria should apply when the United States increases tariff through legislative action.

> "It is not intended that this section be interpreted as requiring the payment of compensation whenever import relief has been granted pursuant to section 203 or requiring that a foreign country be precluded from compensation if it has taken action pursuant to Article XIX [the escape clause in GATT] without extending compensatory concessions to the United States. The GATT provides that countries seeking compensation must show that they have been adversely affected, and it is expected that no action would be taken under this section until such a showing has been made." [S. Rep. 93-1298, p. 10].

(v) Even if the United States were to decide to grant compensation to a country claiming to be harmed by the enactment of the roses tariff legislation, it by no means follows that other U.S. domestic interests would be harmed. The Trade Act of 1974 requires that the effect upon domestic industry, workers and communities of particular tariff concessions selected for consideration must be evaluated by the International Trade Commission and an inter-agency panel under the Office of the Trade Representative. [Sections 131, 132, 133, and 134, Trade Act of 1974]. Thus, the Executive Branch has the opportunity, and obligation, to select tariff items for compensation which will not involve probable economic injury to domestic interests.

(vi) Roses are a floricultural crop, and part of the agricultural economy of the United States. The Court of International Trade has ruled that especially in the area of agricultural trade, the Congress is quite free to enact import regulation legislation free from any restraint claimed to be imposed by the General Agreement on Tariffs and Trade. In Farrman and Co. Inc., and the National Sugar Refining Company v. The United States, Slip Op. 82-61, July 26, 1982, the Court described the powers of the Congress and of the President in this context as follows:

"The steadily increasing sentiment for the full protection of domestic agricultural commodities from price depression and fluctuations caused by foreign imports culminated in the enactment of the amendment to subsection (f) of the section 22 [of the Agricultural Adjustment Act of 1933, as amended] under date of June 16, 1951. * * *.

"This court is fully satisfied that the amendments to section 22, as well as their legislative history, clearly evidence the intent of Congress that the powers delegated to the President therein be neither diminished nor contravened by the provisions of any treaty or trade agreement between the United States and Argentina or the provisions of the General Agreement on Tariffs and Trade. The amendments to subsections (c) and (f) of section 22 were enacted subsequent to the treaty and the trade agreements between the United States and Argentina, and therefore prevail in matters concerning which a conflict might exist. * * *. The President's exercise of the powers so delegated to him was not in violation of, and in fact superseded, the most-favored-nation provisions contained in the treaty and any international agreement between the United States and Argentina or in the General Agreement on Tariffs and Trade." [Slip. Op. 82-61, pp. 15, 18].

(b) A major contributing factor to the excessive and rapid increase in U.S. imports of roses is the extreme differential between the tariff on U.S. imports and the tariff on imports of roses into the 9-member country European Economic Community.

(i) The United States Executive Branch reduced the U.S. tariff on roses in trade agreement negotiations from the statutory rate of 40% ad valorem to the currently effective 8% rate.

(ii) The European Economic Community, on the other hand, with the consent of the United States Executive Branch, has maintained without change its import duty on roses at 24% during June through October [the principal marketing season of European produced roses]. It made only a

3%-point reduction to 17% ad valorem in the tariff on imports in the off-season [November through May]. Moreover, the EEC has declined to grant preferential tariff treatment to imports of roses from developing countries.

(iii) As a result, exports of roses from Colombia, Guatemala, the Dominican Republic, Brazil, Mexico and other non-EEC rose-producing countries have been closed out of the European market. That market is the largest market for fresh cut flowers in the world, exceeding the consumption of roses and other fresh cut flowers in the United States several times over.

(c) The equitable solution to the import problem of the U.S. rose growers is the enactment of legislation patterned after the European tariff, i.e., a 24% tariff on imported fresh cut roses during the principal marketing season in the United States [November through May], and a 17% duty during the so-called "off-season" in the U.S. market [June through October]. This is the concept of H.R. 1146.

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May 11, 1983

Mr. John H. Salmon, Chief Counsel
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Dear Mr. Salmon:

Re: Post-hearing brief on behalf of Roses Incorporated for incorporation in record of hearings on tariff and trade bills, April 27, 1983.

On behalf of C. Richard Wright, President and James C. Krone, Executive Vice-President, Roses Incorporated, who with the undersigned appeared before the Subcommittee on Trade on April 27, 1983 in support of the testimony presented by Mr. Krone for domestic rose growers in favor of the enactment of H.R. 1146, I request that this letter be incorporated in the record of the hearings in conjunction with Mr. Krone's testimony.

The order of witnesses testifying for and against H.R. 1146 at the hearing was such that the witnesses appearing in favor of the bill, on behalf of the members of Roses Incorporated, did not have an opportunity to respond to the opposing testimony of three witnesses who followed us at the hearings. Inasmuch as they heard and had the opportunity to offer rebuttal comments to our testimony, it seems fair that we should be allowed to offer this rebuttal brief to their testimony. We thank you for your consideration in this respect.

The opposing witnesses were Don Flowers on behalf of FTD, Ms. Lavinia DeNood on behalf of Flowers Antiqua, Inc., and James O. Nordlie on behalf of Nordlie, Inc.

The centerpiece of their opposition was the claim that the price and sale of roses to consumers at retail would suffer from the enactment of H.R. 1146. Each of those witnesses asserted that enactment of H.R. 1146 would increase the retail price of fresh cut roses. (FTD press release of April 27, 1983, p. 1; prepared statement of Lavinia DeNood, pp. 1-2; prepared statement of James O. Nordlie, p.3). None of them offered specific evidence or analysis to support their assertions. Their assertions are unfounded and false.

Let's look at the record:

(1) According to The Floral Report, National Retail Floral Index, Special Consumer Study, Flowers, Plants, Accessory Items, Sales of roses as roses for the period ended July 1982,

"Retail prices averaged $1.84 per stem for the period ended July 1982, and increase of 13% versus last year's $1.63."

(2) In 1982, apparent consumption of roses increased by 7.2% compared with 1981. (Table 3, briefing document annexed to the prepared statement of James C. Krone).

(3) There was no increase in the tariff rate of duty applicable to imported roses in 1982.

(4) Clearly, the 21¢ per bloom increase in the retail price of roses in 1982 did not adversely affect the retail sales volume of roses, which increased.

(5) While the retailers of fresh cut roses were profiting by their 21¢ per bloom increase, the rose growers received only an average 1.3¢ per bloom increase in 1982 versus 1981. Further, the landed cost, duty paid, of imported roses increased only an average of 0.9¢ per bloom in 1982 versus 1981. (Table 4, briefing document annexed to the prepared statement of James C. Krone). Obviously, the retailers increased the price of roses to consumers totally out of proportion to the increase in the price of fresh cut roses as sold by the growers, domestic and foreign.

(6) In 1982 there were 94,140,752 rose blooms imported, with a customs value of $18,839,841, which means the average unit value of imported roses, customs value basis in 1982 was 20.0¢ per bloom. (U. S. Dept. of Commerce, Bureau of Census, IM 145X, monthly issues). The tariff applicable to those roses in 1982 was 8% ad valorem, or 1.6¢ per bloom.

(7) H.R. 1146 would increase the tariff on imported roses to 24% if entered during the period November through May, and to 17% for the balance of the year. Thus the increase in the tariff for the first period is 16 percentage points (i.e. 24% - 8%). At the 1982 average customs value, the increase in duty would have been 20¢ x 16% = 3.2¢. During the rest of the year, the increase in the tariff would be 9 percentage points (i.e. 17% - 8%). At the 1982 average customs value, the increase in duty would have been 20¢ x 9% = 1.8¢.

(8) In 1982, the landed cost, duty paid, of imported roses averaged 23.9¢, while the average price of domestic roses as sold by the growers was 30.0¢ for hybrid tea roses, or 27.8¢ for the average of all roses. The imported roses are quite predominantly hybrid tea roses.

Thus, in 1982, domestic hybrid tea roses were undersold by imports by 6.1¢ (i.e., 30.0¢ - 23.9¢). On average, all domestic roses were undersold by imports by 3.9¢ (i.e., 27.8¢ - 23.9¢). (Table 4, briefing document annexed to the prepared testimony of James C. Krone).

(9) Thus the actual amount of increased import duty which would result from enactment of H.R. 1146 (using the data for 1982 as a basis of analysis) of 3.2¢ per bloom during November-May and 1.8¢ for the balance of the year does not eliminate the competitive advantage of the imported roses; i.e., the increase in tariff would not eliminate the entire margin of underselling at which the imported roses are sold.

(10) Where the retailers themselves increased the average price at retail in 1982 by 21¢ per bloom without harming the increase in total sales to consumers, the 3.2% per bloom duty increase, November-May, and the 1.8¢ increase in duty during the balance of the year, obviously will not have the negative effects claimed by the witnesses who testified in opposition to H.R. 1146.

(11) The only effect would be in the purchasing decisions by wholesalers who buy from both domestic growers and foreign growers. Their resale prices do not show any difference as between domestic and imported roses. This fact is confirmed by the wholesale cut flower prices published by the Florists Review, which almost uniformly shows that the wholesale price is the same for domestic and imported roses.

(12) the increase in tariff would take some, but not all of the incentive which now exists for wholesale distributors to buy imported rather than domestic roses because of their greater per bloom profit in doing so. Since the wholesalers now price both domestic and imported blooms at the same price to the retailers, there would be no difference in cost to the retailers. It is noteworthy that wholesalers in general mark up their price by 100% over their costs, while retailers mark up their price by 200% over the price they pay the wholesalers. Thus in 1982, the average price at retail of $1.86 resulted from the wholesaler paying the grower about 30¢, reselling at about 60¢ to retailers, who sold to consumers at about $1.80. In that distribution pricing system, the added duty on imported roses of 1.8¢ or 3.2¢ would be a totally negligible factor in pricing.

Other Comments by Witnesses Appearing in Opposition to H.R. 1146.

(a) Statement of Lavinia DeNood, Flowers Antiqua, Inc.

(1) Ms. DeNood alleged that Roses Inc. represents only a small part of the rose industry. Based on our membership report, presented to our Board and Membership Committee at their Spring meetings 1983, Roses Inc. has 173 grower members in the United States.

Using the association's most current non-member lists, there appear to be 215 commercial rose growers in the United States (some of the 42 non-members may no longer be growing roses). Based on this figure, Roses Inc. represents 80% of the growers in the United States.

Of interest, Roses Inc. has been losing members, mostly due to their giving up the rose business. In our September 1981 membership report, the association reported 193 U.S. grower members. In March 1982 the figure was 181, in October 1982, it was 180, and 173 in March 1983. Of 11 growers who dropped out of the association between October 1982 and March 1983, three resigned as they were no longer growing roses, one dropped because business was so bad they were cutting every possible expense, and the rest were dropped by Roses Inc. because of non-payment of dues (a situation often resulting from difficult financial conditions for the individual greenhouse operator).

(2) Ms. DeNood alleges that growing roses in the United States is not in the national interest to encourage a luxury crop which is dependent on high fuel use. Through research and American entreprenurial innovation, today's U.S. rose grower is using 40% to 60% less fuel than five years ago, and is often using non-oil/gas fuel stocks. Virtually all U.S. rose growers are small businesses--the historical economic backbone of our nation--usually family owned for several generations. Ms. DeNood's suggestion that the continuation of such industries is not in the national interest is clearly without merit.

(3) Ms. DeNood alleges that the proposed tariff plan would heavily penalize their firm, and work against the U. S. desires for good relations with its Caribbean neighbors.

The bill does not prohibit entry of foreign roses into the United States market at any time and does not discriminate against roses from the Carribean or any other area of the world in its treatment.

It is of interest to note that according to the December 1982 IM146 Report, the average declared value of all roses entering the U. S. from all source was 20¢. The average for 1982 entering from Guatemala was 15¢. Thus, roses from Guatemala enjoy a 5¢ price underselling advantage against other foreign roses (and hence undersell U.S. roses by an additional 5¢) in the U. S. marketplace. That advantage against their foreign competitors is not in any way reduced by adoption of the proposed bill.

(b) Statement of James Nordlie, Nordlie, Inc.

(1) Mr. Nordlie asks that Roses Inc. be required to demonstrate conclusively that the industry is being injured. Table 1, page 5, and Table 3, page 7, of Roses Inc.'s H.R. 1146 Briefing Document clearly demonstrates that foreign roses have been entering the U. S. rose market

in ever increasing quantities and have captured an ever increasing share of the market--in 1982, imports accounted for 16.7% of apparent U.S. consumption; based on year-to-date increases of 47% so far this year, foreign roses imported into the United States will expand from 94 million to 138 million and capture between 22% to 24% of the market! Any thinking individual must understand the impact such increases have on domestic producers of a perishable product.

(2) Mr. Nordlie alleges that the Roses Inc. plant count in 1982 is approximately the same as in 1979. This allegation is false. Roses Inc.'s U. S. plant count is down by 577,000 plants from our 1978-79 year -- a 4% decrease.

In 1977, however, when the association was just beginning to realize the serious impact of foreign roses in the marketplace, the plant count of our members was 939,379 more than it is today.

Of course, during this period the association has had intensive programs designed to keep the domestic rose grower alive and well and to increase demand for roses. Despite extensive research and promotional efforts (which efforts contributed a significant increase in apparent U.S. consumption of roses), the association has witnessed the loss of members, a reduction in domestic grower (and member) plant count, and lost market share.

(3) Mr. Nordlie alleges that Roses Inc. represents substantially less than 100% of the rose growers in the United States. As noted previously, Roses Inc. represents 80% of the growers and 80% of the production in the U. S., based on figures we have from the association's files, non-member lists, and currently available market data. No data to the contrary has ever been presented to Roses Inc. by Mr. Nordlie or anyone else.

(4) Mr. Nordlie alleges that the U.S. lost only 6% of its rose growers from 1977 to 1981. While these figures are approximately correct, the figures from the USDA for a longer time period show the following: 1972, 317 growers; 1981, 222 growers. As noted previously, Roses Inc.'s membership (a proxy for total domnestic industry activity) has been seriously reduced in the last two years: September 1981, 193 U.S. grower members; March 1983, 173 U.S. grower members.

(5) Mr. Nordlie alleges that Roses Inc., by its own statements, clearly demonstrates that business has never been better than in the last 3-4 years. Mr. Nordlie, however, conveniently refers to RETAIL sales, which have been greatly expanded in the last few years. Table 2, page 6, of the Briefing Document clearly shows under "Blooms Sold" that DOMESTIC rose sales have been flat for 1980, 1981 and 1982. Thus, despite significant growth in total demand, the domestic producers have been shut out from participating in any of the growth which its promotional efforts have helped create.

(6) On the allegation by Mr. Nordlie of shortages at critical marketing periods such as Valentine's Day, even if one were to assume arguendo that domestic production could not handle holiday demand, Roses Inc. would merely note that the bill doesn't stop roses from entering the market. Nor would the passage of the bill result in U.S. consumers paying higher average prices for roses at retail. See, e.g., pages 1-3, supra. The price of imported roses has historically been just far enough below domestic producer prices to maintain wholesaler preference. The lower price of the imported rose has not been passed on to the retail customer in the past.

Moreover, the passage of the bill would not result in shortages during peak holiday demand. U.S. rose growers have repeatedly expressed a willingness to expand their rose production if they could market the extra production, and they note that there is rarely a shortage of roses. Even following recent major holidays, roses were still available at wholesale following the holidays, indicating that the market was far from "dry."

At the same time, it should be noted that the cut flower market for roses interacts with the availability of other flowers. If the Colombians and other foreign producers who collectively have some 60% of the carnation or pompon markets, fail to bring in their crops for a major U. S. holiday, they can create additional market demand for other products such as roses. This potential for manipulating the U.S. marketplace for cut flowers would be reduced by assuring that at least U.S. growers of roses are not driven from the marketplace.

(c) The FTD Statement by Don Flowers

(1) The FTD representative suggests shortages and an expanding market. Allegations of shortages are unfounded, as reviewed above. Rose grower C. Richard Wright of Utah Roses, Inc., Sandy, Utah, and current National President of Roses Inc., commented that he would be willing to increase his production by 15% in the next twelve months if he felt he could market the additional domestic product.

If all rose growers were to take similar action that would add 65 million plus roses to the market. Within two years on that rate of expansion, the industry could easily replace all imported roses. But, the private, small, family-owned greenhouses that comprise the domestic industry can't sell what they currently produce, even on many major holidays. Increased production by domestic producers in the face of existing unsold production and without support for domestic product from organizations like FTD (for example, despite extended periods during the year when there is massive excess production of roses in the United States, FTD has with rare exception declined to include roses in their nationwide T.V., radio and newspaper promotions) would be economic suicide for these family businesses.

Domestic producers have the ability during most periods of the year to fill demand presently captured by foreign product with existing plants and can increase total production in a short time period to fill all or most of the demand presently captured by imports during the few major holidays. Hence, the allegations of a "potential" lack of supply is without merit.

The above statements on behalf of Roses Inc. cover the major allegations surfaced by witnesses appearing in opposition to H.R. 1146. None of the other statements made by these witnesses require further comment. The threadbare claim that enactment of H.R. 1146 would violate our trade agreements is fully answered by the briefing document submitted as an annex to Mr. Krone's prepared testimony.

Respectfully submitted,

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Mr. KRONE. Thank you, Mr. Chairman.

Importantly, in the brief, we of course recount the activities of our last year's effort with this particular bill, noting the cosponsors who were with us in the last year. The bill, of course, is basically the same as previously introduced by Congressman Panetta. Particularly, though, that bill updates—Mr. Chairman, would you like to break and ask Mr. Panetta?

Chairman GIBBONS. Well, I think we will go right ahead, and then we will hear from Mr. Panetta. He has joined you at the table.

Mr. KRONE. Particularly, that brief notes that in the 2-year period of 1980–82, fresh rose imports increased a total of 106 percent. In the case of imports from Holland, they jumped a whopping 174 percent, and this was in a 2-year period, and from Colombia, 111 percent.

At the same time, the import share of U.S. consumption grew from 9.4 percent in 1980 to 16.7 percent in 1982.

Incidentally, just in the first year to date figures that we have on imports of roses, it shows that it is right on track with what it has been. The year to date increase is about 47 or 48 percent expansion of imports to date. The U.S. domestic rose production and sales, in fact, have declined or at best remained static, in contrast to the dynamic rate of increases in imported roses.

The brief also will show you that for the periods 1980–82, the domestic rose growers were regularly undersold by imports at a margin of about 4 cents a stem, and, Mr. Chairman, if I might suggest, if you could look at the table 4 on page 8 of the brief that is included with our statement, I would like to note there that we do describe, of course, our methodology in arriving at this 4 cent underselling rate.

But I hasten to point out that that is computed based on an averaging of hybrid tea and sweetheart roses, the hybrid tea being the larger size roses and sweetheart the smaller counterpart, and in fact the majority of the exports to the United States or the imports coming in primarily from Colombia are hybrid tea roses.

So I believe, in fact, you could take the 1982 figure, grower average price at wholesale of hybrid tea roses of 30 cents and compare that, if you would, with the 1982 imported rose landed cost, duty paid cost of 23.9 cents, or 24 cents, which would give us, in fact, a 6-cent underselling situation, and I guess in reality if you took out the freight costs coming in and just worked with a cost that would be declared for duty, that 23 cents would probably be more like 20 cents.

So, we are looking on the primary type of rose that is exported to the United States and underselling of a good, solid 6 cents, if not perhaps a 10 cent level, and I wanted to point that out as, I believe, an important situation here that we are confronted with, because as we look at the tariff bill itself as Congressman Panetta has introduced it, it would adjust the U.S. tariff rate of 8 percent on roses to 24 percent, an increase of 16 percent.

Obviously, if we take 20 or 24 cents as the import cost, landed cost of roses entering the United States and add onto it 16 percent on that, I think we will quickly see that we would still be under-

sold in the marketplace by the importers, even if the tariff bill were acted upon today as it has been recommended.

Our brief notes that similar cut flowers, such as the carnation and pompom chrysanthemum, have suffered severe injury from imports, with importers holding 60 percent of the market, and that is six zero, 60 percent of the market on carnations and pompoms, and the rose appears very much to be on a similar track.

The domestic rose growers have been seeking relief through legal remedies provided by Congress but with rare exception our efforts in this area since 1977 have brought little results. As these legal remedies grind slowly through the administrative mazes and courts, we continue to lose market share, and find it very difficult for us to keep industry enthusiasm and funding for such hollow results.

The briefing document follows each of these in detail, and I would urge you to relive with us all of those past and painful and expensive days by reading that section of the brief very carefully, and through the expertise of counsel, the document, and I believe very importantly, the document addresses the question of our U.S. GATT obligations, showing clearly that Congress can adjust a tarrif as we request, and that it is by no means automatic or certain that the United States would be obligated under the trading rules of the agreement to grant compensation to supplier countries belonging to the GATT if duties on roses are raised.

In my opinion, the document attached does an excellent job of explaining our position, past, present, and future, related to this issue, and for that reason, I will just simply leave you with that brief, and instead I will try to give you some idea of not what we have not done or not been able to accomplish, but trying to tell you more so of what our industry has been trying to do beyond coming to Washington to holler and plead for relief.

With hat in hand, perhaps, in 1977, after our industry participated in an unsuccessful 201 escape clause action, we stepped back to look rather carefully at trying to figure out where our future was. We saw rising costs. Energy and inflation were chewing hard on our member firms' overhead costs, and with a perishable product and an inelastic demand, it appeared we would have a hard time passing added costs through to our customers, the wholesale and retail florists.

Imports on the other cut flowers were cutting the heart out of their markets, and we could see the handwriting on the wall for the rose industry. Member firms in the previous 10 years had at best a very flat sales picture. Imported roses are appealing to the florist wholesalers as they can be bought at prices lower than domestic roses, as I described in the underselling comments earlier, and sold at prices equal to that of the domestic crop, giving the wholesaler and retailer of our industry an added margin of profit.

This certainly is a situation that forecasts hard times and declining market share for the U.S. rose grower. The answers we found in those earlier days, I believe, are still valid today, and those answers really require the rose industry to do the following things. A, to expand the U.S. rose consumption, selling the imports, if necessary, to insure at least maintenance of our market.

We feel we must cut our costs of operation in the greenhouse in order to be more competitive, and we must conduct an active program to protest at every ear the import invasion, and through meetings and written communications keep our members informed and active so that they can take advantage of our association's and our industry's efforts by bringing together members and dollars, backing them up with professional marketing research.

We found out more about our consumer and targeted in on him with a professional public relations program. The results have been very much worth our investment. The annual domestic rose sales have held at about 425 million stems sold for the past 10 years. With the additional import of 45 million roses in 1980, 67 million in 1981, and 94 million in 1982, being sold by our efforts, in effect, I guess, we are satisfied to say, at least for the moment, we have been unable to establish a holding pattern for our domestic sales of roses, while at the same time moving the additional roses being shipped to us from off-shore sources.

However, had we not been able to sell more roses, as I described, certainly, our market loss would have been far greater than that 16.7 percent that we now show. Please keep in mind that our domestic rose sales have again been relatively static at that 425 million blooms for over 10 years, so the advent of imports certainly would have eaten into our market share had we not started our promotion program.

I hasten to point out, however, that even with this effort we are still losing our market share each year and being undersold by at least 4 cents a bloom by countries who subsidize their growers and protect them with tariffs, and spells a competitive situation that is far from fair and equitable, in our view.

In our efforts to reduce costs, we addressed the problem through research funded with seed moneys from our industry. Investigations were aimed at cutting costs by reducing energy consumption and increasing production within the greenhouses. Again, these efforts by the small agribusiness mom and pop greenhouses paid off. Researchers have designed systems which allow today's rose grower to operate using 40 to 60 percent less units of fuel than 5 years ago. In fact, one researcher is designing a system which he feels will exceed a 90-percent energy efficiency in the greenhouse.

At the same time, projects on plant nutrition, breeding, insect and disease control make their contributions, and we hear growers talking about increases per square foot in rose production of over 10 percent. Good old Yankee ingenuity combined with stubborn pride and the willingness to gamble scarce family assets on research and promotion are letting us keep most heads above water.

In spite of these successes, we have not found a way to slow the rate of rose imports, nor can we manage to meet their margin of underselling. Our Washington efforts have been atomic in proportion for our small group of 200 or so growers, but the results still escape us.

By the way, Roses, Inc., since its annual meeting in November of last year, to our most recent membership report, which was in late February, lost 600,000 rose plants from our active membership.

Certainly we will continue to promote research and educate ourselves to be better competitors, but I fear the bottom line for our

industry will be at last written in Washington simply because we cannot continue to sustain these programs and compete against foreign growers who come to the United States with subsidized products and unfair tariff barriers.

Of interest, up through 1939, we saw rose tariffs at a 40-percent level. At that time, they were reduced, then, to 25 percent, and steadily negotiated toward 12 percent in the early fifties, 10 percent in the early sixties, and our present 8-percent rate in late 1979.

As our tariffs were lowered, we saw little change in the EEC levels. In fact, their only concession since the establishment of their 24 percent growing season system was the reduction of their nongrowing season level from 20 to 17 percent some years ago. In late 1981 and early 1982, an effort was made by the Society of American Florists to get the EEC to lower their present tariffs to match our 8 percent.

The effort brought no results, thus signaling their continued lack of cooperation in this regard, and triggered our request for parity through this legislation.

In some respects, we come to our elected representatives in Congress asking help. On the other hand, I believe we are victims of a situation not of our own making. We do not ask for subsidies of food, money, or relief plans, or price supports. All we want is a fair place to compete, and if we cannot grow the best rose at the best price and put it into the market at the time it is needed in a truly fair marketplace, then we will shut up and go home and find another way to make a living.

To understand clearly, however, just exactly how fragile and import-sensitive the rose market is, I point out, we have no secondary market. We cannot freeze, or dry, or can, or preserve our roses. We cannot sell them to the Government, either. I might add they are grown to be sold fresh. We have to have a very narrow market window through which we must present our roses for sale, and if we find great quantities of low-priced subsidized roses from offshore growers in the market when we arrive, we must accept distress prices or no sale on a crop that we can neither sell to the Government nor claim on insurance.

At the same time, we produced our roses in a totally enclosed, environmentally controlled greenhouse structure specific to rose production. It is a single use structure. It makes a very poor office building, post office, or grocery store. If we cannot grow roses in it, we probably have little choice but to tear it down in order to reuse the land.

Of course, there is always the possibility that we could shift to other crops, but certainly growing pompom chrysanthemums or carnations would not make good sense, because they are already impacted by imports and are still losing ground.

Shifting to flower or foilage plants is of little interest, because the mum and carnation growers who could manage that have moved into those crops years ago, and there is little left for the rose grower to move to.

The grim reality of it all tells us that the small family owners find their primary asset, the greenhouses, as a millstone around their neck. As a fourth generation in the flower business, I find

this extremely sad. Many of the people I represent here today have sons and daughters active in the family business, and these firms represent the life, future, and retirement for a rare breed of agriculturalists who make a living out of fooling mother nature.

It would seem to me that these dynamic, hardworking, independent businessmen have a very worthwhile contribution to make to this country, and they are very much alive and capable of continuation, if they can have but a small bit of fairness and equality in their marketplace.

H.R. 1146 as introduced by Congressman Leon E. Panetta will accomplish this purpose, and as it does not set any quotas, I cannot see how it will adversely affect the supply of roses for the wholesaler, retailer, or consumer.

Also, with a regular margin of underselling already established by the importers, and as I do not recall ever seeing domestic imported roses, carnations, or mums being offered at differing prices, I assume that any tariff increases would probably be absorbed in the distribution fabric of the industry, and not passed on to the consumer.

For these reasons, and those included in our attached briefing document, the domestic rose growers request that you, Mr. Chairman, and the members of this great subcommittee move to act favorably on this legislation at the earliest possible date.

Thank you.

Chairman GIBBONS. Thank you, Mr. Krone, for your very interesting testimony.

Mr. Panetta, would you like to proceed?

STATEMENT OF HON. LEON E. PANETTA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. PANETTA. Thank you, Mr. Chairman.

I appreciate that, and I ask that my statement be made a part of the record, and I would summarize it.

Chairman GIBBONS. Yes, it will.

[The prepared statement follows:]

STATEMENT OF HON. LEON E. PANETTA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Dear Mr. Chairman, I appreciate the opportunity to testify here today on behalf of H.R. 1146, a bill I have introduced to ensure the future vitality of our nation's rose industry.

About 30 percent of the commercial roses grown in the United States are produced in my district, the 16th District of California. The State of California as a whole produces about 40 percent of our country's domestically-grown roses. I am testifying before you today because rose growers in my district and throughout the country are being threatened by the ever-increasing number of foreign roses entering our domestic marketplace with significant and unfair competitive advantages.

In the last two years, imports of cut roses to this country have more than doubled. Since 1977, imports have increased by more than ninefold, from 10.3 million blooms in 1977 to 94.1 million blooms in 1982. One of the major reasons for such a strong penetration of the domestic market by foreign rose producers is the very low import duty enjoyed by foreign exporters to this country. The European Economic Community, which comprises the major fresh cut rose market in the world, imposes a duty three times as high as that imposed by the United States during prime marketing season. No wonder major rose exporting countries are looking to the United States market for increased sales.

In addition to a tariff advantage, major exporters of roses to this country enjoy other competitive advantages resulting from unfair trade practices and subsidies.

Colombia, the major exporter of cut roses to this country, for instance, has been charged with unfairly dumping roses in the United States market. Based on evidence presented by domestic rose growers, the Court of International Trade last year ordered the Department of Commerce to proceed with an investigation of Colombian dumping practices. The Department of Commerce has appealed the case and a decision is expected from a federal court of appeals soon. Last November, the International Trade Administration made a preliminary determination that Colombia was unfairly subsidizing growers of roses and other cut flowers. In addition, rose growers in two other major exporting countries, Holland and Israel, are being subsidized by their governments. In Holland, subsidies for greenhouse construction and energy in some instances cover up to 18 percent of their production costs. This combination of factors has encouraged millions of foreign roses to enter our domestic market at very cheap and noncompetitive prices.

As a result of this influx of cheap, subsidized foreign roses, United States producers are barely able to survive. In the last 10 years, 30 percent of the domestic rose growers have been forced out of business. In my own district, for instance, one rose grower lost four long-established accounts in the last few years, a fact directly attributable to the rising number of foreign rose imports. Another grower, the largest in the country, has not built a new greenhouse since 1978 due to uncertainties in the future domestic cut rose market. Overall, in the last five years, the domestic market share of imports has grown from 2.2 to 16.7 percent in 1982, pushing the domestic rose growers' share to drastically low levels.

The bill I have introduced would restore equity in the trade relations in the rose industry between the United States and the European Community by aligning the United States tariff rates on fresh cut roses to the level that is currently imposed by the EEC.

Since 1977, domestic rose growers have repeatedly petitioned the United States Trade Commission and the International Trade Administration for relief in the form of more equitable tariff rates on imported roses. These petitions have consistently failed to provide relief. Because every available legal remedy to secure a correction of this problem has been exhausted by the representatives of domestic rose growers, I believe the only remaining avenue of relief is though legislation to amend the tariff schedules.

Our nation's rose growers must be saved from the fate suffered by domestic producers of other cut flowers in this country. Similar inequitable tariffs on carnations and chrysanthemums in recent years have pushed the foreign market share of these flowers to a level that is causing the virtual dissolution of the domestic industry for these flowers. Hopefully, the passage of H.R. 1146 will prevent such demise in our domestic rose industry, and preserve the vitality of the rose industry in the future. This legislation is supported by Roses, Incorporated, a trade association whose family-owned enterprises produce about 85 percent of the cut roses grown nationwide. I urge the Committee's support of this legislation.

Mr. PANETTA. Mr. Chairman, I come here as someone who has strongly supported the basic thrust of this subcommittee in advocating free trade. I think in the 7 years that I have been in the Congress, I have not come to this subcommittee with any kind of special interest legislation, and so therefore I do not take lightly my appearance before this subcommittee. I want to make clear to you that in introducing this bill, I have taken a very hard look at the industry and at what they have projected.

The problem here is that we have essentially a family run industry. It does impact about 15 States. And we are talking about almost 10,000 jobs. The rose-growing industry is very labor-intensive. But these people operate on their own. They are basically free enterprise people. That is what they are all about. They do not ask for much. As a matter of fact, the less government involved in their business, the better. I think that is the way they basically operate.

The problem is that there has been a dramatic impact in their businesses over the last few years. Earlier, Mr. Krone mentioned the chrysanthemum carnation problem, and now rose growers see the same thing happening to them. It is a legitimate fear, because

we are talking about areas that are heavily subsidized abroad, particularly by the Europeans, and we are talking about an area in which we have dramatically low duty rates in this country as compared with very high rates over there.

Just over the last 2 years, imports of cut roses to this country have more than doubled. We are looking at almost a ninefold increase since 1977, from 10.1 million blooms in 1977 to almost 94.1 million blooms in 1982. There is no question that we are seeing a dramatic impact on the market here in this country. It is not just something these gentlemen are saying on their own, incidentally, either.

The reality is that the Court of International Trade last year ordered the Department of Commerce to proceed with an investigation of Colombian dumping practices with regard to cut flowers. In addition to that, the International Trade Administration just last November made a preliminary determination that Colombia was unfairly subsidizing growers of roses and other cut flowers.

In addition, the rose growers in two major exporting countries, Holland and Israel, are being subsidized heavily by their governments. In Holland, for instance, subsidies for greenhouse construction and energy in some instances cover up to 18 percent of production costs. Anybody who knows the flower business knows that energy costs are one of the biggest costs in the business.

In addition to that, there have been transportation subsidies in some of these countries, and as I said, they are all recognized. The combination of these factors just have pumped unbelievably large amounts into the domestic market.

The U.S. producers right now are looking at the question of whether they are going to be able to survive. They lost carnations. They lost chrysanthemums. It now looks like they are going to lose roses as well.

In my own district, I talked to one rose grower who said he had lost four very long established accounts, and is considering whether he can survive in the business at this point. The largest rose grower in the country has not built a new greenhouse since 1978. I would remind you that about 30 percent of the rose growers in the country are in my district, and about 40 percent are in California.

So, overall, there has been a tremendous impact in that area on the domestic growers. It is not as if they have not petitioned. They have petitioned. They have petitioned for relief time and time again from the U.S. Trade Commission, the International Trade Administration. The brief before you, I think, adequately describes those actions. They have tried to exhaust every legal remedy without having to come to the Congress. In talking to these gentlemen and to the people in the industry I believe that this is their last resort. That is what it is.

For that reason I want to urge you to take a very, very close look at this, because what they are asking for is mere equity with the European Market, the heaviest importer of cut roses in the world. Regardless of whether you accept our recommendation in this bill, please do something. We need some help. And that is really why I come here, to state that these are the last people who come begging, and they just basically want a little help so that they can continue to fight on their own.

I appreciate your listening.

Chairman GIBBONS. Thank you, Mr. Panetta and Mr. Krone. You are very well prepared and have presented testimony very well and I am very impressed with the quality of your argument.

Mr. Pease?

Mr. PEASE. Mr. Chairman, I would like to thank our distinguished colleague and my classmate, Mr. Panetta, for his sterling testimony, and the other witnesses as well. I think Mr. Panetta might be particularly interested in what I view as a possible development angle to this bill.

One of the things that concerns Congress in lesser developed countries like Colombia is the diversion of prime farmland from the purpose of growing food for the local populace to the purpose of growing commercial crops. Given the success of Colombia in growing roses for the U.S. market, I am interested in whether this type of growing for an elite market affects the ability of Columbia to produce enough food for its people.

Do you see that as a legitimate concern on the part of Congress, as we consider bills of this kind?

Mr. PANETTA. Without question, when we consider food for peace and all the other programs, I think one of the things we look at is whether these Third World countries, developing countries are devoting enough in terms of production of their own food. What I sense is that producers in these countries eye markets over here, and then decide to go the limit in terms of subsidies, particularly Colombia.

As I said, most of the findings that we have had from the various agencies that are involved in this area have targeted Colombia because it is so blatant in the way it redirects some of these subsidies, particularly in the transportation area.

Now, Colombia and the United States have tried to work out some deals, and I think the Colombian Government has tried to back away from some of the more obvious subsidies, but the fact is that we are talking about a country that ought to be spending a lot more of their farmland producing food for people. I agree with your comments, and I think that this is a legitimate concern.

Mr. PEASE. I appreciate that comment.

Chairman GIBBONS. Thank you, gentlemen.

Our next witness is from Florists' Transworld Delivery, Mr. Don Flowers, past president; the American Rose Council, and Flowers Antigua, Inc., Lavinia deNood, and Nordlie, Inc., Mr. James O. Nordlie, president.

We have Mr. Flowers listed first. I am sure that you have caught plenty of kidding about your name being Don Flowers, and being the head of Florists' Transworld Delivery, so I will refrain from kidding you. Please proceed.

STATEMENT OF DON FLOWERS, PAST PRESIDENT, FLORISTS' TRANSWORLD DELIVERY ASSOCIATION, ACCOMPANIED BY GORDON SMITH, VICE PRESIDENT, HILL & KNOWLTON

Mr. FLOWERS. Thank you very much, Mr. Chairman, and members of the committee.

I am Don Flowers, a retail florist and grower in Randallstown, Maryland, and a grower of foliage crops near Fort Myers, Fla.

I am a past president of Florists' Transworld Delivery Association, on whose behalf I am appearing. With me is Gordon Smith, vice president of Hill & Knowlton, who is our Washington representative. A member-owned cooperative of more than 20,000 retail florists in the United States, FTD is the Nation's oldest and largest intercity florist delivery service.

I would ask, sir, that my full statement and exhibits attached to it be made a part of the record of this hearing.

Chairman GIBBONS. Yes, sir, they will, and the full statements for all of the other witnesses, will be entered as part of the record also.

[The prepared statement and additional material follow:]

STATEMENT OF DON FLOWERS, PAST PRESIDENT, FLORISTS' TRANSWORLD DELIVERY ASSOCIATION

I am Don Flowers, a retail florist in Randallstown, Maryland. I am also a grower of florist foliage crops near Fort Myers, Florida, in Lee County. I am speaking on behalf of Florists' Transworld Delivery Association, a member-owned cooperative of more than 20,000 retail florists in the U.S., all of them independent small businessmen. With me is Gordon Smith, vice president of Hill and Knowlton, FTD's government affairs representative in Washington. I am a past president of FTD and have served on the board of directors of Interflora, our international florist delivery network composed of 44,500 retail florists in 128 countries.

For the record, FTD was founded in 1910 by a few florists interested in exchanging orders for a highly perishable product on an intercity basis. The oldest, largest, and only member-owned organization of its type in the florist industry, FTD provides clearinghouse, marketing, research, educational, communications, and other services to its members. In this statement I am dealing with the portion of ornamental crop production and distribution that is identified as commercial floriculture, and in particular with cut roses imported into the U.S. from several countries.

First let me outline the basic factual situation with regard to this issue. For a number of years, Roses, Inc., a trade association of domestic rose growers, has sought import restrictions in a variety of forums. These avenues have included a Section 201 "escape clause" proceeding in 1979–80, as provided for in the Trade Act of 1974, countervailing duty petitions and an antidumping petition. Countervailing duties, which I understand are based on the theory of unfair trade subsidies by a foreign country, have been assessed against Israel and were assessed, and later suspended against Colombia. A pending antidumping case, originally dismissed by the International Trade Administration, is working its way through the appellate procedure with no final decision to date.

Since countervailing duties and antidumping procedures represent specialized kinds of import relief based upon determinations of fact in highly specific situations, it is most instructive for us to look at the escape clause case before the International Trade Commission 1979–80. Where it is necessary to prove that imports of a product that is "like or directly competitive" to the domestically produced product is "a substantial cause of serious injury . . . or a threat thereof," the ITC ruled unanimously that there was no such injury or threat of injury.

As a result, the domestic industry apparently chose as a sort of shortcut an appeal directly to Congress to legislate a dramatic increase in the tariff, or duty, on imports of cut roses. Last year, this committee heard testimony on H.R. 6239, a bill identical to H.R. 1146, which we opposed, saying that it would work "a substantial hardship in terms of price and availability on retailers and consumers of roses."

FTD continues to oppose this legislation and other efforts to restrict imports where such restrictions are primarily intended to limit supplies and to increase prices of a flower that is utterly essential to our retail business—and for all intents and purposes, quite "essential" in the consumer's thinking about flowers.

It is of fundamental importance, not only to this committee but to the florist industry and to major investors in our industry that the reasons for our opposition be perfectly clear to all. All the economic indicators point to unprecedented growth in our industry during the next decade. The realistic situation we face is that supply will not equal demand. Even more fundamental is that restricted supply may very

well discourage the investors this industry must attract if it is to meet the kind of consumer demand that we, as marketers, know is out there. True, roses are only one kind of cut flower involved, but rose growers can expect to enjoy their full share of this expansion in consumer demand if they do not price their product out of the market.

The promotional aspect of this situation is interesting. As indicated later in this statement, FTD's current advertising budget is more than $12 million annually. The American Florists' Marketing Council, a part of our national trade association, has a budget of about $2 million for time and space. It appears, and this is an estimate, that other florist industry organizations may have consumer advertising budgets totalling about $6 million. To this may be added a budget of up to $6 million that would be raised if domestic growers and importers succeed in creating the proposed Floraboard organization later this year (Floraboard is described in more detail later in this statement). Since FTD has until recent years carried the major share of the consumer advertising and promotional effort for this industry it would seem that the additional advertising support now in place and in prospect—a possible total of $26 million annually—could have a very salutary effect on our economic outlook.

The floriculture industry is one of the last "mom and pop" kinds of business enterprise to come of age in marketing sophistication. It has evolved, as members of this committee well realize, from a local type of business to national and international enterprises. FTD member clearings in 1981–82 totaled more than $413 million and will top that figure for 1982–83, which is a recession year, and we must bear in mind that FTD clearings represent only about 15 percent of a retail florist's total business. And this does not deal with the approximately 40 percent of sales that occur outside of the traditional retail florist channel of distribution.

FTD SUPPORTS DOMESTIC PRODUCERS

A point I want to make as strongly as I can is that FTC supports, and will continue to support, domestic producers of roses and other cut flowers. We do not want to leave the impression that we favor imports over domestic production. Support for the domestic industry has been consistently part of our approach to the problem before the International Trade Commission and other forums. Nor does FTD support or in any way encourage what might be called "unfair" trade. For instance, if unfair subsidies that contravene international agreements are paid to foreign producers by their governments in a situation in which there is actual or potential injury to domestic producers countervailing duties should apply.

FTD and its members support domestic growers in other significant ways:

1. My area—Baltimore—uses very little in the way of imported roses. The reason is not far to seek. We have exellent growers in Maryland and nearby Pennsylvania who are fully capable of supplying our requirements on most occasions. We get a fresher product faster than we could from South America or Holland, and we prize the high quality associated with the local product. This is also true in other areas where the same statement would apply, for instance in California, where there is virtually no market for imported roses. On the other hand, there is no domestic production of roses in Florida, Louisiana, and Texas. In other areas—Philadelphia and New York City—domestic production is simply inadequate at the critical, high demand seasons of the year.

2. FTD, with an adverstising budget of more than $12 million annually—we are by far the largest and most important advertiser to the consumer—has helped the domestic industry to merchandise and market its product for nearly 75 years.

3. FTD development the concept of trademarked arrangement for special occasions, such as Valentines Day, Mothers Day, and so on. We have at times included roses in these arrangements at the request of Roses, Inc., helping to generate substantial demand for the product through our advertising in national media. Imports, I might say, have tended to keep prices down in a situation where, in the past, they have had a tendency to rise because of demand created by such promotion.

4. FTD's marketing research, conceded to be the only reliable marketing and statistical data in the industry generally, indicates that floriculture's goods and services—valued at about $1.5 billion at the wholesale level and nearly $6 billion at the consumer level, will rise sharply through the 1980s. We look for substantial expansion in cut flower and pot plant sales, to the degree that our concern is there will be shortage of product from all sources. I submit with this statement a story entitled "Florists, Vendors in District Enjoy a Blooming Business," which appeared in the Washington Post on Monday, April 18, 1983.

It is local in its coverage, but there a many such indicators that the marketing of cut flowers in the U.S. is about to rise, or "take off" in dramatic fashion in the var-

ious kinds of retail outlets now coming on the scene. One indicator is that few new malls or supermarket outlets are being built that don't include a flower shop or kiosk, with increased emphasis on "cash and carry."

CONGRESS SUPPORTS FLOWER MARKETING

Another important factor in what we think will be a sharp increase in consumer demand for our products is legislation passed by Congress in 1981. Domestic growers of all cut flowers, including roses, were represented by our national trade association in seeking legislation required to create a new marketing and marketing research entity called Floraboard. In seeking that legislation, growers declared there responsibility and commitment to help expand consumption of this product by increased consumer promotion. Operating in the same manner as the Egg Board and other special promotion programs for cotton, potatoes and other products, funds would be raised at the grower level through a checkoff system. It is estimated that the initial budget for Floraboard, when it is approved in a grower referendum late this summer, will be as much as $10 million for advertising and promotion. FTD has specifically supported the Floraboard idea since it was first proposed about four years ago.

We believe that it would be inconsistent for Congress to apply restrictions to floricultural products such as roses at a time when it has given its blessing to an important industry effort to expand consumption.

HIGH ROSE TARIFFS WOULD RESTRICT SUPPLY, UP PRICES

In 1977, FTD's board of directors adopted a policy calling for the availability in the marketplace of a quality product, in adequate quantities, at reasonable prices to retailers and consumers. This position has been affirmed on six occasions by different FTD boards of directors. It recognizes that the lifeline of the retail florist, his very ability to be a florist, lies in the availability of flowers.

This availability is a key factor in another respect. FTD florists in California, where domestic supply is more than adequate, must be sure the product is available in New York, Boston or Washington, D.C. when they transmit customers' orders. FTD rules require that its members stock and display adequate supplies of five basic flowers, including roses, because they must meet varying demands of consumers and they must live up to a nationally advertised money-back guarantee.

And this can be tough at Valentines Day when, typically, domestic production and imports, taken together cannot meet the demand for this red flower that is so firmly lodged in the psyche of consumers everywhere. The prices of roses now at such peak demand periods illustrate the accuracy of our observation that it is the consumer who would pay for import restrictions, and that imports of roses, far from harming the domestic industry, actually help it by serving a market sector in which they fill a gap between domestic availability and demand.

The effect of an increased tariff on cut rose imports raises a number of significant points. In general, it is recognized by such authorities as the International Economic Affairs Department of the National Association of Manufacturers that a tariff rate (speaking of Japan) "is a significant barrier not only because it is high but because it has the effect of increasing the price by considerably more than the nominal ad valorem rate would suggest." (NAM International Economic Report, February/March 1983).

The impact of H.R. 1146 on consumer prices in the U.S. would be all the heavier because of the way in which the two-tier system is structured in this bill. In brief, the bill calls for increasing the present eight percent duty to 17 percent and 24 percent (a maximum of 300 percent!), modeling its approach on the European Economic Community (Common Market) even though no U.S. roses are exported to Europe. However, this somewhat fanciful approach to making domestic roses the first beneficiary of so-called "trade reciprocity" has a rather unusual angle, as was pointed out by the U.S. Department of Agriculture in opposing this bill last year. In opposing the enactment of H.R. 6239, the Department [1] said:

"The bill seeks to link U.S. duties to those in the European Community. The Department questions the rationale for such an initiative. Colombia is the leading supplier of roses to the United States—$11.1 million out of the total $13.1 million in 1981. Other minor suppliers are the European Community, Guatemala, Israel and Canada—$0.9 million, $0.3 million, $0.3 million and $0.2 million respectively. It might also be noted that the bill, as currently drafted, provides for a 24 percent

[1] Figures subject to revision.

duty during the winter months at a time when the duty in the European Community is 17 percent. It also provides for a 17 percent duty during the summer months at a time when the duty in the European Community is 24 percent. The proposed duties thus would not be consistent with those of the European Economic Comunity."

The point I make is that the effect of the bill, however it is meant to ape the Common Market system, would be to jack up prices by applying the highest (24 percent) tariff level during the months at which U.S. consumer demand is highest because of Thankgiving, the Christmas season, Valentines Day (week in some areas), Secretary's Week, Mothers Day, and the graduation/wedding season. The impact of the bill on prices through reducing supply in the marketplace is obvious.

The Department of Agriculture also pointed out in its letter of June 4, 1982, that:

"This bill would provide for increased duties on cut roses above the 8 percent negotiated in 1979 in the Multilateral Trade Negotiations. Any unilateral action resulting in an increased duty means that the United States would owe compensation for removal of this international commitment to countries supplying roses and would be obliged to adjust duties on other products or risk the possibility of retaliatory action against U.S. exports."

This emphasizes a point we made last year and wish to reiterate: viz, that this bill seeks to exact "reciprocity" on a commodity basis, a concept for which there appears to be no basis in international trade law and regulation despite its popularity as an idea in some quarters. The bill seeks to persuade Congress to legislate specific commodity tariff rates, a practice Congress gave up years ago when it created the Tariff Commission and other adjudicatory agencies. Further, the effort to predicate U.S. tariff rates on those levied on similar imports by a foreign entity with which the U.S. has no export trade in the affected commodity (i.e., roses) seems spurious in concept.

To comment further on the implications of this bill for price and supply, it should be noted that the executive vice president of Roses, Inc. was quoted in Florists' Review, a trade magazine, on December 9, 1982, as saying that while the small amount of countervailing duty then being preliminarily assessed on Colombian cut flowers would be "terribly insignificant" as a trade restriction, "it would take a high tariff increase to cause cut flower prices to go up appreciably at the consumer level." This statement, combined with a request to Congress to authorize a 300 percent hike in tariffs on roses at peak demand periods of the year suggests that higher consumer prices are the primary objective of this legislation.

Considering the basically imprecise effect of a tariff increase on a perishable product subject to transportation problems, spoilage, storage and other problems, it seems clear that wholesaler markup will have a substantial effect on retailers and consumers. A rule of thumb is that about 40 percent of a retailer's cost is the cost of goods sold. At least another 30 percent is labor in the highly labor-intensive environment of the type of traditional retail florist shop operated by most FTD members. The rest, another 30 percent, is other overhead and finally profit, which is substantially less than 10 percent in the great majority of retail shops.

If a wholesaler substantially increases his price to retailers because of such a sharp increase in his acquisition cost as that proposed in H.R. 1146, it follows quite clearly that this cost will be passed through at retail. An interesting example is what happened at the current eight percent rate of duty at peak periods such as last Valentines Day. An inquiry of FTD members in the Baltimore-Washington area showed that to a greater degree than ever, florists have the impression that their customers are walking away from roses that they consider to be beyond their budgets. And publicity about Valentines Day prices hurts rose sales at off-peak periods because the consumer only "remembers" the seemingly outrageous prices he read and heard about at Valentines.

We must also look at the other side of this coin. A sharply increased tariff on cut roses will make imports sufficiently expensive to reduce the quantity imported, leaving more of the market to domestic producers. To the extent supply is reduced, it will inevitably drive up the price of the domestic product with the same calamitous results at the consumer level. Unless absolute proof can be produced to the contrary, there is every reason to believe that this mischievous effort to triple the tariff on cut rose imports is intended to hold up prices for this product at the consumer level.

As a flower of love and remembrance, the rose has occupied a special place in the feelings of people going back to the time of Greek legend. People will always want the rose to express certain feelings and ideas, but its days as a commercial cut flower could be numbered if prices are unrealistically hiked through such artificial means as tariffs. And the quality of domestic roses, the colors and varieties availa-

ble, must equal the high quality now coming from Holland, Israel and Colombia. In short, there must be competition beyond the price level alone.

CONCLUSION

Let me return once more to a theme that is central to the successful marketing of roses and other cut flowers. It is the conviction of industry leaders and marketing experts that we are on the verge of a tremendous boom in public demand for, and consumption of, cut flowers. It is true to some extent, as remarked by Forbes (October 5, 1982) that "until recently the domestic flower industry was almost catatonic from years of doing business the same old way." It is this aspect of the industry marketing pattern that is changing. In the same Forbes article, a leading New Jersey wholesaler remarked that "this is a sleeping giant of an industry. If Americans doubled their consumption, there wouldn't be enough flowers in the world to meet the demand." And the editor of one industry trade magazine, Florists' Review, remarked in an editorial on March 17, 1983, "I believe it's time the U.S. industry accepts the truth that flowers are a global enterprise. Once that fact is accepted, U.S. growers will gain the insight they need to fight aggressively for their share of the enormous U.S. market."

I could go on at length in this vein, but I believe FTD's views in this matter are clear. We believe in the future of our product. We believe in our ability to market it and to provide maximum pleasure and satisfaction to all consumers. We believe that our future is bounded only by our ability to imagine it and create it.

And we oppose H.R. 1146 as an artificial and damaging restriction on our ability to make our small part of the American dream a reality.

Thank you for your time and attention. It is appreciated by our 20,000 members, who are independent small businessmen located in almost every major city and town and hamlet in this nation. With your permission, I wish to include as exhibits several recent newspaper and magazine articles, and request that they be made part of the record. They are listed below for ready reference.

I will be more than pleased to try to answer any questions you may have.

LIST OF ATTACHMENTS TO STATEMENT OF FLORISTS' TRANSWORLD DELIVERY

1. Story from the Washington Post, Monday, April 18, 1983, entitled "Florists, Vendors in District Enjoy a Blooming Business."
2. Column entitled "Two More Letters about Supermarket Flowers," Southern Florist and Nurseryman, January 21, 1983.
3. Story from Grower Talks, January 1983, on expansion of consumer marketing of cut flowers.
4. Story from Grower Talks, January 1983, entitled "Conroy's Flowers to the Masses—A Unique Approach."
5. Editorial from Florists' Review, April 1983.
6. Special FTD Year-round Promotion No. 1, Roses Day Today, a special rose promotion designed by Florists' Transworld Delivery to increase cut rose sales at retail.
7. Article describing International Movement of Cut Flowers from HortScience, Volume 17, October 1982.
8. The rose in legend and mythology, "Your Valentine Rose," California Florist, February 1983.

[From the Washington Post, Apr. 18, 1983]

FLORISTS, VENDORS IN DISTRICT ENJOY A BLOOMING BUSINESS

(By Alma Guillermoprieto)

Tulips, daffodils, freesias, irises, pussywillows, mums, their heart-catching colors break through the grayness of a drizzly, excessively cold spring day and stop a passerby hurrying down S Street from Connecticut Avenue.

He pauses, looks, touches a petal, asks a price, sighs, turns away and turns back again, selects a bouquet and is on his way, another springtime example of growing phenomenon. For the past several years Washingtonians, men as well as women, have been buying fresh-cut flowers for themselves, and others more than ever before, according to merchants with rapidly expanding flower trades.

"People are indulging themselves more and more with flowers," said Joyce Chaconas recently at the 18th and I streets NW outlet of Peter's Flowerland, a chain of flower stands that her husband, Peter, started 12 years ago. "We have to do very

little advertising; the flowers on the sidewalk are their own advertisement. People walk by, see them, and buy.

In three years, for example, the Chaconases have opened five Peter's Flowerland sidewalk stands in Washington's downtown business district. They are leaders of a new breed of sidewalk flower vendors who have tapped a growing, lucrative flower market: the impulse buyer.

No longer are funeral parlors and wedding caterers the main focus of interest for fast-tracked flower retailers. The spontaneous, self-indulgent buyer is to the flower industry what China was to Coca-Cola: an uncharted land of opportunity.

The blooming of Washington is part of a national trend. The flower industry, described by Forbes magazine as "almost catatonic" just a few years ago, is increasing its sales by 10 percent a year by offering its products in supermarkets, elaborate sidewalk kiosks and just about anywhere that a funderal wreath is not to be found.

Banking on the impulse buyer, the Society of American Florists expects that 1981's total sales volume of $5 billion in flowers and potted plants nationally will double by 1985. Total sales figures for Washington are unavailable.

In Washington the boom is most visiable on city streets, where vendors with buckets of flowers and more elaborate stands are breaking with the traditional ways of established flower retailers.

"It doesn't matter the price," says Moussa Chamma, known as "Mike" to the buyers at his stand on Connecticut Avenue and S Street NW. "I have good quality. People spend money to get what they want."

He keeps a diverse stock.

Some flowers, mums, daisies, carnations, people aren't buying them like they used to," he said. "I have freesias, sweet william, eucalyptus . . . people don't know the name, but they ask, 'What do you do with these?' And they buy."

For Michael Caruso, whose great-grandfather started a flower business from a horse-and-buggy stand at Eighth and F streets NW, the expanse of extravagently colored flowers in front of his M Street NW store is an advertisement, not a principal source of sales. Like most flowers shop owners, Caruso depends upon telephone sales and on life's inescapable events, such as weddings, funerals, christenings, illnesses and holidays, for 70 percent of his trade. Yet he, too, is aware that his future is in the new customer.

"People are really getting into flowers," he said. "Lots of them are coming by once a week. They've put flowers on their shopping list."

"Several years ago there wasn't so much variety," Caruso added, standing in front of the filled, glass-fronted cooler in his store. Opening its door, he reverently removed a deep-blue iris. "Isn't it pretty?" he asked before replacing the flower among its jeweled brethren.

Caruso's store has a larger selection of flowers than his father ever sold. There are sky-blue delphiniums, shocking-red anthuriums and delicate windflowers among the array. Like very wholesaler and retailer interviewed, Caruso attributes the rich variety largely to Holland's pioneering work in selective breeding, centralized merchandising and overnight shipping of its year-round crop of hothouse flowers. Innovation has paid off for the Dutch, who last year sold $27 million worth of fresh flowers to the United States, or $13 million more than in 1981.

"There are a lot more flowers coming in," said a salesman at A. Gude Sons and Associates. "And Holland is sending more than they used to. They [the Dutch] have come up with weeds they make into flowers. Every year there are new ones, and customers are getting more sophisticated in their demands."

It is just before 10 a.m. on the 1300 block of I Street and the salesman at A. Gude Sons is storing the fashionable alstroemeria, a lily developed by the Dutch from a wild Peruvian plant, in the store's room-sized cooler. The fragile blossoms look like baby orchids atop their tall stems, and Holland sells them in colors ranging from shell white to hot orange.

This is the hour when wholesalers scramble, setting flowers in buckets for vendors on their way to street corners, putting away the morning's fresh lot brought in from National and Dulles Airports and telephoning to California, New York and Amsterdam for the following day's supply.

Ted Johnson, the manager at A. Gude Sons, is speaking into a telephone and gesturing at his listener on the other end. Johnson orders most of his flowers from growers in California, and one of his salesmen explains that wholesalers run into problems when a flower lot is bumped from a plane in favor of a full load of passengers.

Air transport is crucial to the flower trade. Johnson can call a dealer in Amsterdam on a Tuesday and ask him to bid on a lot of freesias at the daily auction, then

receive the fragrant shipment in his store Thursday morning, after a transfer through New York.

New York wholesalers shuttle gerbera daisies from Israel, chrysanthemums from Colombia, and orchids from Costa Rica to the District. The flowers, properly cut at the stem before each change of water, can be expected to last at least a week on a consumer's office desk or on the dining room mantel.

By noon, having placed the next day's orders and stored the unsold wares, A. Gude Sons is almost ready to call it a day. Other wholesalers rely on bucket vendors, equipped with $15 D.C. vendor's licenses, to buy flowers that have spent several days in the shop. Gude prefers to deal with decorators and florists.

"When the flowers start getting old, I get rid of them," Johnson said. "I'll call up a decorator that I know handles a lot of parties, who might need enough flowers for 50 arrangements, or a florist who does a lot of funeral work, and give them a big discount."

For the less specialized, the street market has a variety to offer: daffodils, roses, daisies. At a five-bucket stand at 15th and K streets, NW, Lonnie Crawford, dressed in work coveralls, stops and selects a single rose for his love.

"Flowers are closer to her heart than what I can say" he explains.

At one of two competing stalls in front of the K Street NW exit of Farragut North Metro station, Nhung McLeland, a chemist who works nearby, studies and ponders before putting together with a painter's eye a perfect bouquet of one peach-colored lily, one cream-tinted fringed chrysanthemum, and one pink carnation, which she will place on her office desk. She is the flower merchandiser's dream: an upwardly mobile professional who buys flowers frequently and on impulse.

"I don't buy them for others that much," she says. "I buy them when I see them and when I have time. A good selection is so much more available on the street than than it used to be."

Whatever the flower lovers' motivations, there is something seemingly extravagent about flowers, whether it is the single calla lily that Peter's Flowerland offers for $4, or the bunch of 10 daffodils for $1. There is something reckless and irresistable about the mad colors blooming against the concrete starkness of the urban sidewalk.

Dusty Morse, a flower salesman, offers perhaps the most telling motivation when he remembers how he used to buy flowers for his apartment as often as he could afford: "I decided I didn't feel like waiting for other people to buy them for me. So I started getting them for myself."

[From the Southern Florist & Nurseryman, Jan. 21, 1983]

Two More Letters About Supermarket Flowers

(By Dr. Joseph E. Howland, University of Nevada)

Jim Krone, of Roses, Inc., writes:

Dear Joe: Skip Chase, Chase Gardens in Portland, OR., attended the Produce Marketing Association conference and gave me a thumbnail sketch of what went on there. It sounded kind of exciting, and certainly there is a strong feeling that I'm getting from him that the non-florist outlets are on the brink of heavy expansion. How do you view what was said there as it relates to cut roses (fresh roses, JEH) in the future?

I replied: Skip Chase reported accurately. The supermarket people are set to expand heavily into fresh flowers, expecially roses.

PMA sees the imports as their answer, especially those from Holland. Guaranteed supply seemed to be the key; i.e., the Dutch are willing to do all the work necessary to scout for flowers, deliver on time, etc.

I saw no interest in domestic roses as such. I did see overwhelming interest in fresh-dated roses—wherever they are to originate.

Roses Inc. still has "minutes" left on the clock: Roses Inc. could head off a complete rout of U.S. roses by gearing up at once to give the supermarkets what they will have from someone, either U.S. growers or Holland. Twin needs (really demands): guaranteed supply and fresh dating (guaranteed freshness).

Roses Inc. knows how to do both. Members may not be willing to do either.

That is the choice. Survivors will make it.

You saw the "Sunburst Farms—Holland" ad in the November 27th Flower News? Roses Inc. has to expect more of this as more firms move into bringing fresh imports into the United States to supply the hunger of the supermarkets.

Not too late for Roses Inc. to move, Jim. But mighty little time left to get going.

Following is another exchange of letters.

Darryl McEwen, of SAF writes:

Dear Joe: On reviewing my extensive notes from the PMA Floral Marketing Seminar in Phoenix, I recall that in your talk you referred to a 1955 Business Week article on flower marketing that sounded rather interesting. Could you send me a copy at your convenience?

I really enjoyed your presentation at PMA and am sending a copy of my notes on it to Rox Boynton who works with our quality control committee at SAF.

I replied:

Attached is a copy of the 1955 article. Almost 30 years old, but read what it was saying about us then:

"The flower business has been an ailing industry. In keeping its sights set on the carriage trade, it has let a tremendous target—the everyday housewife—go unassailed. What's to be done? Agricultural and marketing experts think they know. Their answer, though revolutionary for the flower business, is the adoption of a principle accepted by more and more industries seeking to move into broader mass distribution—find out what the customer wants, then supply it.

"The experts may have hold of something that will eventually push the florist business into 20th century mass marketing. Fragile, long-stemmed beauties are all very well for a luxury clientele. For mass selling, a new breed is in order—one that has shorter stems, greater toughness. Far from gilding the lily, we must learn to toughen it up.

"Skepticism: Florists don't welcome the new competion, even though Cornell University tests indicate that supermarket customers aren't drawn away from the regular florist; rather, they represent a brand-new group of flower buyers. But only a few growers who supply supermarkets are willing to talk about it."

Yes, PMA had me as the lead speaker as Phoenix, with the idea that PMA was finally going to get its members to think about *marketing* flowers instead of just merchandising them (most of the PMA members seem to think that all there is to marketing is merchandising!). I was disappointed to discover how few understood what marketing could do for the supermarket.

The supermarkets are walking away with the pot plant business, and soon they will have the lion's share of the fresh flower business. All will come out of the market share of the traditional retail florist.

Worse, the supermarkets are going after the fresh flower business with imports. Almost 100 percent! The U.S. grower is in for a hard time if he lets this business go to the imports just because the domestic growers refuse to do the two things that the supermarkets demand: 1) supply fresh dated flowers, and 2) offer *guaranteed* on-time delivery of the full quantity contracted for months in advance. The Dutch are only too ready to do both! Meantime, the Society of American Florists (SAF) watches "while Rome burns." Go for it, Darryl. You can get SAF "off center."

Although I didn't say so in my letter to Darryl, I might have reminded him that SAF's own Brookings Strategy Meeting had waltzed around these same ideas, with conclusions like:

Never let the consumer get bored.

Fill the consumers' expectations.

Get the product exposed more.

Let's not allow the garbage to remain as the biggest consumer of floral products.

Breed flowers for their keeping quality.

Stop growing what the grower likes to grow; stop retailing what the florist likes to sell.

[From Grower Talks, January 1983]

Yes, the Florists Can Sell More Flowers

As growers have watched per capita sales of flowers hibernate for more than a decade, they've become increasingly frustrated by "their sales force," the traditional retail florists. That sales force wasn't selling. Instead, it was sitting in artsy, out-of-the-way shoppes, waiting for business to walk in. It was devoting more and more shelf space to giftware and artificials, mourning the loss of funeral business, scaring customers away with astronomical markups and unpriced merchandise, and relying on half a dozen holidays to carry the year. Few retailers believed in advertising or promotions, and, so, relied on their wire services to do whatever got done. Phooey!

That's not to say that there haven't been marketers in the retail shops. It's just that many so-called retail florists are amateurs who are in and out of business in the space of a year. According to Earl Herbert, a workshop instructor in FTD's education division, 60 percent of all retail sales are made by 12 percent of the florists. It's the other 87 percent of that population that gives the group a bad name.

Some growers saw mass marketers as the answer to their prayers, but that sweet solution was not without bitterness, at least in the get-acquainted days. There are signs that the supers are more super than they were (see Vic's article on page 30), but it's doubtful that they're the answer for every grower.

Fortunately, there's new action in some florist shops, and one can say with some assurance that per capita consumption of flowers will be heading up. Quickly, it should be said that US growers will have to rise to the occasion if they're to share the benefits of an awakening audience, for the florists who're spearheading the new wave are very imaginative when it comes to securing supplies. Colombia and Holland compete with Kenya, Korea, Mexico, and New Zealand in getting the new retailer's business, and domestic growers will have to swim in that stream.

On the bright side, once a grower's impressed such a retailer with his quality product, reasonable prices, and dependable supply, it's possible to deal direct, negotiate long-term contracts (in some cases), and smooth the peaks and valleys of the flower-selling year.

Two of the more prominent examples of the new bread of retailer are Al Felly, Felly's Flowers, Madison, WI, and José Falconi, Southflower Markets, New York and Atlanta. Felly, of course, has received a good deal of attention in the trade press and has addressed conventions and served on floral organizations' advisory boards for years. There's new cause to bring him up again. Falconi is a newcomer, but since his first Southflower Market opened in February of 1981, he's become a celebrity, too. According to an article in the October 25, 1982 issue of Forbes magazine, his three outlets "are already generating $3 million in sales" and, "his inventory, he says, turns 275 times a year." A fourth Southflower Market opened this past fall.

DOES EVERYONE KNOW AL?

Several issues ago, Grower Talks referred to "Everyone knows Al" Felly, but it's possible that everyone only thinks he knows Al. Felly's convention talks have enlightened listeners about advertising and promotion, Chain of Life procedures for increasing vase life, the advantages of having a central assembly-line designing facility, and consumer research, but Al says, "I've really only talked about three things: product quality, convenience, and the price/value relationship. Today let's concentrate on convenience.

"Years ago, I said that 'convenience' was a flower shop on every corner. In response to that, I developed the Blumen centers. Today, however 'convenience' means a telephone and a charge card."

In response to that new definition, Al has developed . . . No, it isn't developed yet. Al is in the process of developing 1-800-FLORIST.

"Eleven or twelve years ago, I found out there was such a thing as a WATS line. It was in its infancy then. I also noticed that the area code in Madison is 356—that's FLO. When I figured that out, it didn't take me long to realize that a toll-free line throughout the US could sell a lot of flowers. I registered the 1-800-FLORIST number with the Secretary of State and proceeded to the phone company to get the line. At the time, however, they weren't giving numbers out of sequence."

In the intervening years, there's been a lot of rigamarole with the phone company, but today Felly owns 1-800-FLORIST, 1-800-FLOWERS and any other number that could confuse the public about calling for those blooming things. He also has 20 operating WATS lines at this shop in Madison and he has room for a total of 400 lines. Those lines, that telephone number, and 24-hour service are the raw materials.

TARGET: $72 MILLION

The history of Al's project development is interesting, but more interesting to growers, perhaps, is its goal. Al intends to increase wire service sending by 10 percent within five years (and by 1 percent by the end of 1983). Current wire service traffic totals $722.2 million a year.

To accomplish this, Felly will spend $850,000 on radio and television advertising in carefully chosen test markets. The ad message is simple: "Where there's a phone, there's a florist. Dial 1-800-FLORIST. Open 24 hours a day, 365 days a year." The

ads are more elaborate, of course, but that simple message began getting heavy coverage in Portland, Sacramento, San Diego, and Bakersfield in November.

In each of those markets, Felly's ad budget will top the total advertising budget of the market's local florists. Orders will come to Madison and be sent via Felly's seven Mercury consoles to fillings florists around the nation. It's the basic FTD mechanism, but with heavy advertising and a memorable telephone number.

We can leave it to retail florist magazines to speculate about what 1-800-FLORIST will mean to other retailers or to the wire services. Our attention can turn to its meaning to growers: What will it mean to have a single florist with $72 million worth of clout? It's true that Felly won't be purchasing all the flowers needed to fill those orders, but he will have a strong voice in determining product mix, flower quality, and price structures.

"We're going to gain a great deal of power in the wire business," Al says. "If a florist doesn't deliver 100 percent consumer satisfaction, we'll just remove his name from our computer. We've already doing some preliminary investigations in major cities: 'How many dozen roses will you use to fill my Valentine's Day orders at $40 $45?' I'm not trying to control the market—it's just a bid job. If you don't want to bid it, I'm going to find another guy."

Felly would be willing to seek that "other guy" among FTD's full 22,000 membership, but his request for the 22,000-name electronic tape was turned down by FTD. (Generally, though, he says that both FTD and Teleflora have been cooperative.) "As long as I can't get that tape," says Al, "I'm going to be very selective as to who will fill my orders."

WHAT'S IN IT FOR GROWERS?

The simple answer to that question is, whatever boosts flower consumption helps all segments of the industry. Of course, it also helps importers, who have often demonstrated their ability to take advantage of such opportunities. Domestic growers should be aware that all florists in the US are now going to be cognizant of the Felly influence in the market and be striving to pass muster.

Although Felly won't directly make purchase decisions, he will influence them, and he does insist on quality product and value (not necessarily low price) to the consumer. He will also have the power to move novelty crops toward wider acceptance. Any grower who demonstrates his abilities to provide what's wanted will benefit more than proportionately from the $72 million of business Felly intends to create.

Are there more concrete directions one can gain from considering the purchasing behavior of Felly's Flowers of Madison, WI? John Felly, who does the buying for the five shops says he hates to stay with any given source of supply for more than a year, even if that gower provides excellent product at good prices. "For one thing," he says, "I stay in better touch with what's available if I don't allow my buying to become habit. For another, I find that almost everyone gets complacent when he has a big, steady customer. I have stayed with a grower for as long as 18 months when that grower was the only source for a given product, but that's not my preference."

John shops the world and has seen plenty of good flowers and plenty of bad ones. He has no generalizations to make about Country A vs Country B. Instead, he inspects product thoroughly upon receipt and keeps tabs on who's pleased him.

Is there anything Felly's can't get enough of? "Snapdragons," says Al. "Growers think people don't want 'em because of the short vase life, but if snaps are pulsed in silver thiosulfate, they'll last two weeks in the home. I'd like to have more zinnias, too." "And some novelty orchids," adds John.

ZERO TO $3 MILLION IN LESS THAN TWO YEARS

Southflower Market gained instant notoriety when it opened at Columbus Avenue and 68th Street in New York City in February, 1981. Valentine's Day roses (long-stemmed) sold for $17 a dozen, and thousands of other blooms sold for equally attractive prices. Customers were delighted and Southflower grew rapidly and steadily through March and April of '81, and on April 30, the first of a series of full-page ads in the New York Times and New York magazine gave New York flower buyers (and the flower industry) a second jolt. October '81, a second shop opened—that one in Atlanta, GA. December '81, another shop in NYC. Fall '82, a fourth shop. $3 million in sales! 275 merchandise turns a year!

Before you get too excited about the possibilities, let's interject that 80% of the flowers moved through Southflower are Dutch or Colombian. Of the remainder, most is purchased from California Cut Flower Exchange. Flowers that don't ship

well or that just aren't available from foreign sources are purchased through specialty growers in the vicinities of the Southflower stores. Do keep that last category in mind. We'll come back to that after a look at Southflower philosophy of merchandising.

Addressing the Society of American Florists convention last summer, Southflower owner José Falconi said, "The only reason people might not enjoy flowers every single day of their lives is that there's an absence of opportunity to do it. There are five components of opportunity:

(1) Flowers have to be made highly visible every day where people are. (2) Flowers have to be very abundant to give consumers a feeling that they have some choice, some control over the buying process. (3) Flowers have to be available in great variety, not only to provide choice, but to allow discovery. Never let the customers get bored. (4) Flowers have to be as high quality as is humanly possible. All the time. (5) Flowers have to be sold at the lowest possible fair price. That's the only way flowers have a chance to become a regular item in people's weekly budgets. This may mean—it does for me—that, at holiday times, you don't make all the money the traffic will bear."

Not exactly radical stuff. In fact, Falconi's been quoted in the Northern California Flower Growers' Nor Cal Odyssey as saying, "Most of what Southflower is all about is only new in the sense that it is old, and has been there so long that most people have forgotten."

What kind of store flows from the Southflower philosophy? "Shopping has to be fun—an adventure," says José, "and there are four keys to making it fun:

"(1) Our stores have to be not only visible, but beautiful in architecture and design—something of lasting significance that can make the store a neighborhood institution.

"(2) There can't be any barriers, physical or psychological, between people and the flowers on display. You've got to maintain an open, uncluttered display that's got abundant merchandise with clear labels and prices. Encourage the customers to pick up the merchandise and smell it.

"(3) The store must truly be geared to personal attention. It's got to be friendly outgoing, straightforward. Attention must be given to all customer questions and demands, no matter how whimsical. The staff has to be desirous of making the customer have a great time. And, of course, answers to questions must be correct.

"(4) Flowers have to be monitored for freshness and condition. They've got to look their best at all times. We even have a replacement policy. If a customer comes back and says, 'My flowers died,' we say, 'Have some new ones.' We've had very little abuse of that policy."

IT'S FLOWERS THEY WANT

"Arrangements have to look natural," José says. "People who are willing to enjoy flowers every day are more interested in God's work than in mine. I don't think it takes pyramids and blobs of flowers to represent nature. I don't think people buy flowers in the shapes of puppy dogs or ice cream sodas for their own enjoyment. My customers are people who take pleasure in the appearance of a good fruit and vegetable stand just for the look of the perfect plums and peaches and lettuce.

"The flower industry in the US has, for the past three decades, built more and more distance between flowers and people. It's made the experience of buying and enjoying flowers more and more impersonal. There are reasons that happened, of course. When the population shifted from urban centers, 'convenience' became phone orders, [Sounds familiar.] wire service counter books, etc. Also, the industry's advertising thrust has concentrated so much on enforcing peak holiday demand. Holidays are when flowers are most expensive and most likely to be substandard. The holiday emphasis tends to put flowers' worst foot forward for the biggest audience. It's tough to break that cycle, but it must be done."

RETAILER WOULD LIKE TO MEET US GROWER OF NOVELTIES

So José's a wonderful guy and everybody (with the possible exception of his competition) loves him, right? Wrong. He relies heavily on foreign product partly because it's good stuff at good prices, but also because, he claims, many wholesalers refuse to deal with Southflower. Those wholesalers fear retaliation from their other retail customers. Some growers refuse to deal with the firm because they fear retaliation from their wholesalers. And, says José, many US growers are less than responsive to his suggestion of what might be grown. Growers in Colombia and Holland are more willing to experiment.

It's definitely the novelty crops Falconi wants. He even suspects that many of those novelties are being produced in the US, but, "The growers don't come forward. I do get calls saying, 'I've got great mums,' or, 'I've got great carnations', but I've got great supplies of those commodities, too."

"What do you need that you can't find in the US or abroad?" we asked.

"I've got a list a mile long. Giant anemones, for instance. Poppies. One of the biggest sellers is the lily family. Maybe the biggest-selling family of flowers. I can't find auratums, pink auratums, White Alba, . . . I know of a few sources in Washington state that produce better lilies than Holland does at any time for year, but I need more sources. I'll write out a full list and send it to you." And when we receive it, we'll pass it to you.

Meanwhile, you growers might wonder if you've been hiding your lights under bushels (of restrictive wholesalers). Does a retailer like Falconi know what you can do?

[From Grower Talks, January 1983]

Conroy's Flowers to the Masses—A Unique Approach

(By Vic Ball)

You see it as you drive by. (How can you miss it?) Reminds you of the old saw "You can't do business from an empty wagon." Conroy's wagon always overflows. And such masses of color do attract and sell.

Conroy's other exciting innovation here: All but three of these shops are franchises. It's got be the world's largest florist franchise operation. And it's working. Says Chris, "We're adding an average of one shop a month—always a color grand opening."

THE NEW AUCTION

We talked with Conroy recently. It happened to be the day after the new San Diego auction opened (November 15). He wasn't just supportive of it—he was ecstatic. "We need three to four more like it in California. It's just a whole lot simpler, more efficient way to get flowers from the grower to the retail outlets. An auction brings together a wide variety of flowers that we want so much. The auction is such a long step ahead of today's antiquated marketing system. To me the markets of today with their many hang-ups are the #1 impediment to real expansion in the flower business."

We are aware that these broadside attacks on today's west coast markets will raise hackles on Wall Street in L.A., which is jealously guarding the status quo, resisting change. But you've got to listen to Conroy. His credentials in marketing flowers are powerful. Second, what he is so vociferously supporting is the very heart of the Dutch flower marketing system. Which—hands down—is the world leader in efficient marketing of flowers.

"The industry out here badly needs more auctions like this one—and industry should provide support." (Details on the San Diego opening in next month's *Grower Talks.*)

ON QUALITY

Anyone who steps out of the established pattern—who truly innovates—will be the target for pot shots.

Certainly including Chris Conroy. The heart of all this: quality.

We don't know all about Conroy's flowers (who does?) but several things we see here:

The displays we've seen: Only three or four—but the flowers we saw were certainly fresh, well displayed. Probably many were middle grade—not the longest stem or the largest flowers—but good flowers. Conroy says, "We are a quality shop—many of our franchises belong to FTD."

Repeat trade: Again, no survey—but obviously a $20 million plus per year flower business must be satisfying its customers and be bringing a lot of them back for more. Or Conroy's flowers would disappear.

ON FRANCHISES

They are at the heart of Conroy's operation.

To come in under the Conroy name and system, a prospective franchisee today puts up $320 to $370 thousand for the shop and facilities, $50 thousand is for the franchise itself, and the franchisee agrees to pay Conroy's 10½ percent of gross sales. 3 percent goes right back for advertising.

There's an arrangement for financial support for franchisees—with their own Small Business Investment Company (SBIC). It provides loans to the franchisee.

Chris himself is active in the world of franchising—on the board of the International Franchise Association. Even they have a trade association! and Chris is there. All of which makes us wonder why the franchise idea has not appeared in the garden center field. It's not a guarantee of success at all—but the franchise idea is behind many major success stories today. Like McDonald's hamburgers, Holiday Inns.

WHAT THIS TELLS THE GROWER

Conclusion from our chaotic 60 minutes with Conroy: The long-stemmed, large flowers that spell success to the grower are not what the majority of consumers will buy. The big demand out ahead is for fresh quality—but mid-size, mid-stem length flower. And, of course, as modest a cost as possible. That's the kind of flower that fits into the low mark-up massive volume system such as Conroy's.

Yes, more of those disbud Bright Golden Anne type mums grown 6" × 8", three per stem—espoused by old Cloy Miller 20 years ago. A bit ahead of his time maybe?

ABOUT CHRIS

Flamboyant, outspoken, controversial—he overwhelms you! Obviously a remarkable success story in the world of flowers. Forbes magazine, October 25, 1982, has a report on it all.

He started with a modest street stand 22 years ago, at age 19. Today at 42 he is, to our knowledge, the No. 1 flower franchiser anywhere.

Direst, incisive, a show-off at times, but you come away with an impression of a man who intuitively knows what that lady out there on the Los Angeles streets wants—and what she'll pay for it. He's not the darling of the prestigious FTD florists (who we growers also need!), but our guess is that we'll hear a lot more about Chris Conroy before he hangs up the dark blue suit and white shirt.

And that ever-present big daisy in his lapel.

"Why don't you wear a flower, Vic?"

[From Florists' Review, April 1983]

DON'T JUST HANG IN THERE

(By Barbara A. Bader, Editor)

Diversify. That's the answer for many troubled U.S. growers. Look to the way the market is developing here and then project your thoughts into the future and see yourself not just hanging in there, but making lots of money by supplying the demand for flowers that you can grow competitively.

Years ago, U.S. growers had little reason to think too hard about a future filled with competition from growers in other lands. The world had to shrink first—as it has since the close of World War II. There have been many technological advances and economic and social changes in the past 35 years or so. They add up to a world full of countries that are all dependent on each other.

A few changes directly affecting the U.S. industry are advances in transportation—both within the U.S. and intercontinentally—refinements in growing techniques, post-harvest care, pest and disease control development of more and more new varieties, and increased awareness of the tastes and trends of the market (in other words, communication).

These factors have increased the possibilities for the U.S. industry, but they have also made it possible for other countries (most notably Colombia, Holland and Israel) to produce fine flowers, and ship them safely and profitably for sale to the U.S. consumer. This causes consternation among U.S. growers and excitement among U.S. wholesalers and retailers.

I believe it's time the U.S. industry accepts the truth that flowers are a global enterprise. Once that fact is accepted, U.S. growers will gain the insight they need to fight aggressively for their share of the enormous U.S. market. It seems to me that the raised-fist approach wastes a lot of energy that might be devoted more pro-

ductively to adapting to the inevitable changes brought about by technological advances and the shifting patterns of the international political, social and economic fabric.

The truth is that the Colombian growers will continue to ship enormous quantities of flowers to the U.S. even if U.S. growers continue to try to make it hard for them. And the Dutch aren't about to let go of their very strong grasp on the U.S. market either.

The American growers must find and use their most competitive advantages and opportunities before such options are also swallowed up by outside competition. The Dutch had the need and the foresight to expand their market—so they looked hungrily to the underdeveloped US market. They ship in a skyrocketing amount of flowers of high quality and diverse variety. They use themselves to maximum advantage.

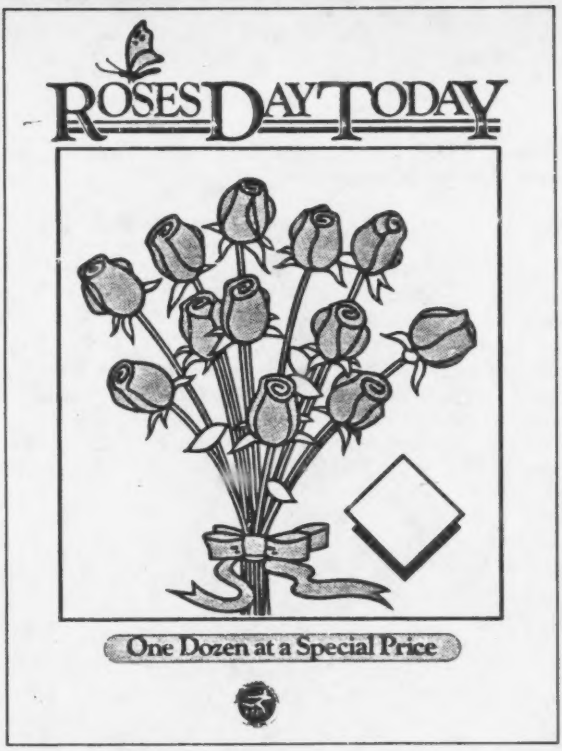
The Colombians have a very different way of going about their business. But the goal is the same: they want as large a share of the US market as they can get. And in the 10 or so years they're been growing primarily for the US market, they've refined their methods, improved their techniques and are doing a remarkable business.

A couple weeks ago I visited a number of Colombian growers in Bogota and Medellin. I can safely say that not only are they very serious and take great pride in their operations, but they are determined to supply more and more for US consumption. Though they have grown and progressed in an amazing way over the past decade by growing primarily mums, carns and roses, they are looking to the future: even many Colombian growers see the need to diversify. And I saw the evidence of it at many of the farms. They are experimenting with alstroemerias, freesia, gerberas, cut foliage and even calla lilies. As large and important as the Colombian industry has become, they are not content to relax.

I asked a number of the growers, in fact, what they would do if they were US growers in competition with the Colombians. Many answered immediately with one simple word: "Diversify."

Because technology continues to be vital to the advancement of the US industry, next week's issue of *Florists' Review* is devoted to that topic. Watch for it and my upcoming detailed account of what I saw happening in Colombia.

FTD YEAR-ROUND PROMOTION #1
ROSES DAY TODAY



ROSES DAY POSTER

Tells the whole story colorfully and fast.

When you decide the time has come for "Roses Day Today," put this poster where it can't be missed and make those extra impulse sales: On your front door or adjacent window, on a wall just behind your sales counter, on your refrigerated case door. Printed in full color in 17" by 22" size to fit your FTD poster frame.

IDEA: Save the poster (and all "Roses Day" Material) for the next time you decide to offer a "Roses Day Today" special.

Here are all the elements you need for a promotion you can use today and time and time again.

"Roses Day Today" is designed to help you coordinate an easy profit-making product promotion to sell roses whenever the time is right.

- The obvious reason for a "Roses Day" is an inventory over-stock. You want to move them out NOW—while they're still fresh and beautiful!
- A special price offer on quality roses is always an excellent traffic builder. When it comes to emotional impact, few floral gifts equal a "dozen roses."
- When the wholesale price is right, you can make extra profit and attract new customers by putting on a "Roses Day Today" promotion...anytime.

Read through this folder describing all the materials of FTD® Year-Round Promotion #1. Check our suggested uses for the "Roses Day Today" materials enclosed—poster, tent card and a new ceiling dangler. They're designed to bring a colorful "event look" to your shop. (Newspaper ad slicks and suggested radio scripts are also enclosed.)

CHECK THE ADDITIONAL MATERIALS YOU CAN ORDER FREE FOR YOUR ROSES DAY PROMOTION—INCLUDING METAL SMOCK BADGES IN ANY QUANTITY AND A VINYL CHANGE MAT FOR YOUR SALES COUNTER—ALL IN THE SAME VIVID, APPEALING COLORS.

We hope you'll put "Roses Day Today" to work for you to help build those important year-round sales. And please call or write FTD with your comments, reactions and results. They'll help us to do a better job in all the "Year-Round Promotion Kits" to come.

FTD LOCAL STORE MARKETING DEPARTMENT

®Registered Trademark of Florists' Transworld Delivery Association

ALSO INCLUDED IN "ROSES DAY TODAY" KIT:

TWIRLING CEILING DANGLER

Catches eyes with color & action.

Suspend this ceiling dangler where it will catch both air flow and customer flow—and you'll sell extra dozens on "Roses Day." Use black thread or lightweight fishing line to hang it in the breeze near the front door. Or over your sales counter. Order more danglers—they're free—if you really want to make a high impact display of your ceiling! It's 11½" round and printed on both sides in full "Roses Day" theme colors.

IDEA: If you have a good protected spot—or the weather's right—hang one or more of these danglers outside your shop entrance.

TWO-FACED TENT CARD

Delivers the "Roses Day" message with double impact.

Where's the best place for this two-faced tent card? Anywhere it can be seen both "coming and going"—possibly your card-writing desk, on a gift item shelf with aisles on both sides, your sales counter or Selection Guide area. Each side is 6⅛" high, 9½" wide, scored to stand up with a quick fold. Full theme colors.

IDEA: If you have lots of places to use Tent Cards, order more. They're free from FTD. See order form.

ALSO AVAILABLE FREE FOR YOUR "ROSES DAY" PROMOTION:

CAN'T MISS CHANGE MAT

Glossy vinyl adds sell to your sales counter.

Every customer will get your "Roses Day" message when you put this sleek Change Mat on your sales counter. The smooth vinyl surface is perfect for order or check writing. And it's printed in the same vivid colors as the rest of this "Roses Day Today" promotion package. Even includes an open "see-through" area on the underside. You simply tape on a paper sheet with your own rose prices. It's 12" deep by 18" wide. It's FREE. See order form.

IDEA: Order 2 or 3 and put a "Roses Day" mat on your card writing desk or Selection Guide table, too!

SMOCK BADGE

Starts conversations!

The message is a bit of a tease: "Isn't today your day?" Your day for roses, of course. Colorful metal badge has a bend tab that holds it firmly to pocket or lapel. It's 2⅛" round plus tab. They're FREE, so order enough for everyone, then order a few spares!

IDEA: Ask everyone in your shop to wear their badges wherever they go on "Roses Day." Sales-building conversations can start anywhere!

ALSO INCLUDED IN YOUR "ROSES DAY" PROMOTION KIT:

NEWSPAPER AD SLICKS

As always, these FTD suggested newspaper ads are "ready to go" and need only your shop name, address and phone number for crisp, clean reproduction in your newspaper/s. Do NOTE, however, the headline options open to you. It's important to be clear on the specific day or days on which your special pricing will apply.

SUGGESTED RADIO COMMERCIALS

We've included three suggested radio commercials—two 30's and one full minute. You need to add name, location, price and closing hour where indicated. And adapt scripts freely to suit your needs. For a one-day or short-term promotion, radio can be particularly effective. Look into the possibilities for "Roses Day Today."

AND HERE ARE A DOZEN IDEAS FOR MORE "ROSES DAY" PROMOTION:

Hand out a single rose FREE to your first dozen customers on "Roses Day" (or even the day before) and get word-of-mouth advertising going for you.

A few days in advance, send a single rose, possibly in an inexpensive bud vase, to appropriate newspaper columnists; radio announcers or disc jockeys; TV news, weather or sports people. Add a brief card mentioning that it's in honor of "Roses Day"—and you'll probably get some free coverage.

Create a display of your featured roses arrayed by the dozen in all colors available in your refrigerated case. Give them "room" to enhance their beauty.

For an extra touch, tie up each dozen "to go" with a pretty ribbon and bow—like the roses featured in the promotional materials.

Donate a dozen nicely arranged roses to a nearby hospital for lobby or reception desk display. Add a small hand-done tent card mentioning that it's "Roses Day" at your shop.

Keep a fresh bouquet of your roses going all day on your sales counter, too.

Use a personable employee or hire a "model" for a few hours to distribute "Roses Day Today" promotional cards to early-morning and lunch-hour pedestrian traffic in locations near you. For extra pull, offer a "free rose" on the card to all comers—one to a customer—even if they don't buy a dozen roses. Note: You may need a permit; call city hall.

Do a bit of "co-promoting" with friendly nearby merchants who pull customer traffic that could be attracted to your shop. Trade a good placement for your "Roses Day" poster or tent card, with or without a bouquet, for putting up the other shop's promotional sign in your place "next week."

Offer a dozen roses to civic or social groups "lunching" a day or two before your "Roses Day" promotion in exchange for a mention of "Roses Day" at your shop. Let them raffle off the bouquets as door prizes after the luncheon.

You can "set up" some publicity coverage by photographing yourself giving a local dignitary (mayor, city councilman or woman, the chief of police) a bouquet of a dozen roses. Send photo with story written in "news release" form to local press, including shopper papers.

For a change of pace (and inexpensive advertising), you might try running an ad in the "Personals" column of your paper. Such as: "Thoughtful, dashing man wants to express sentiments to lovely lady. Takes her dozen roses. Lives happily ever after. Roses Day special at (Florist Shop Name) on (Date) only: ($00.00) per lovely dozen."

Instruct ALL personnel who handle your phone calls to answer with: " 'Roses Day Today' (or 'Roses Day Tomorrow'), only $00.00 a dozen. Good morning/afternoon!"

FTD MEMBER, please note:
Remember that all of this promotion and advertising material tells your customers you are offering a special price. Special prices mean prices that are below your most recent regular selling price. The promotion will get results only if you make a meaningful (and temporary) reduction in your regular selling price.

© YEAR-ROUND PROMOTION #1, FLORISTS' TRANSWORLD DELIVERY ASSOCIATION, SOUTHFIELD, MICHIGAN 48037

[From HortScience, October 1982]

International Movement of Cut Flowers

(By George L. Staby and Jerry L. Robertson, Department of Horticulture, Ohio State University)

There has been a substantial increase in the 1970s in the international movement of cut flowers and cuttings and to a lesser extent potted flowering and foliage plants (5, 6, 35, 58). This increase has been mainly related to the establishment of new production areas in Central and South America (especially Colombia), Israel, Kenya, and more recently, Mexico. Not all of the increased floral product movement in the 1970s was due to new production areas as established floral production centers in The Netherlands, Italy, and Canada have also increased their international floral trade activities.

Some of the reasons these countries have been successful to date in developing the international floral export market are:

1. Labor is relatively inexpensive and is available in large numbers (Colombia and Kenya)
2. Governmental regulations are favorable and inducements existed especially in the early years (Colombia and Israel).
3. Climatic conditions are mild in these areas which contributes to lower energy costs. Greenhouse structures are minimal (Colombia) or not used at all (Kenya).
4. Technological implementation is utilized to the highest degree and fully mechanized greenhouses are utilized when needed (The Netherlands and Israel).
5. In many production areas, transportation is efficient, organized, and favorable especially as airlines attempt to fill cargo space (Colombia, Kenya, and Israel).
6. Management is skilled in that entrepreneurs manage these new production facilities, concentrating on the business dimensions of the floral industry. Management is stressed as well as production aspect in making business decisions (Colombia and Kenya).

The purpose of this paper is to summarize floral product movement on the international scene in 2 subject areas: 1) economic value and product flow, and 2) specific postharvest considerations that relate to product characteristics at the consumption end. While cut flowers will be emphasized, comments regarding other floral crops will be included when approrpiate.

ECONOMIC VALUE AND PRODUCT FLOW

The international movement of flowers primarily involves 4 major cities: Miami, Amsterdam, Tel Aviv, and Bogota. These cities act as major distribution points for cut flowers, cut greens, and plants moving from export countries to major population and consumption areas. With the exception of Europe and to much less extent Canada, containerized plants are not sold through international channels (58). The market for cut greens and flowers is international in nature.

The Netherlands is the major source for floral crops, exporting a wide assortment of floral products to northern Europe, North America, the Far East, and Third World countries. The major volume goes to Europe, accounting for almost $1 billion in 1980 (Table 1). In 1980, The Netherlands exported another $31 million in flowers primarily to Colombia, Israel, and other European countries.

Colombia is the second most important exporter of cut flowers with the vast majority being roses, carnations, and pompon chrysanthemums (5). The economic value was about $175 million in 1980. About 70 percent of these exports went to the United States and 30 percent to Europe, where West Germany is the major importer of Colombian flowers. In the United States, Colombian flowers are received in Miami for distribution, although there has been a small increase of direct shipments to the western United States.

TABLE I. EXPORT OF FLOWERS AND PLANTS FROM THE NETHERLANDS TO EUROPE, 1980

Export source	Export value	
	Thousands	Percent
Belgium	$25,765	2.7
Denmark	11,885	1.3
West Germany	643,756	68.6
Great Britain	34,748	3.7

TABLE I. EXPORT OF FLOWERS AND PLANTS FROM THE NETHERLANDS TO EUROPE, 1980—Continued

Export source	Export value	
	Thousands	Percent
France	101,928	10.9
Italy	18,835	2.0
Norway	3,982	.4
Austria	31,199	3.3
Spain	4,583	.5
Sweden	25,990	2.8
Switzerland	36,017	3.8
Total Europe	938,688	100

Source: An unpublished report by the Aalsmeer Auction. 1981.

Israel in the third major exporter of floral corps with a value of over $150 million in 1980. The vast majority is imported to Western Europe as only $8 million worth of flowers go to the United States; however, this market is growing steadily (3). Roses and miniature carnations dominate exports from Israel.

Other export sources for flowers and plants are Italy, France, and Spain which accounted for a combined total export value of $245 million in 1980. Most of these products are sold in Europe. Kenya exports some $40 million worth of floral products primarily to Europe. Other net exporting flower sources include Thailand, Singapore, Brazil, Costa Rica, Guatemala, and Honduras.

Mexico is a new emerging source for flowers which are primarily exported to the United States. Mexico has been a major source for cut greens in the United States and Europe (5). In 1980, cut green exports to the United States alone accounted for over $35 million. The major cut green is chamaedorea. While Mexico has been considered a viable source for cut flowers, the industry has been relatively slow in development compared to Colombia because of environmental, social, and economic barriers.

The United States is a major net importer of cut flowers and greens along with most countries in Europe (Table 2). The Netherlands is the exception in that about 55 percent of its production is exported. The United States does export some flowers and greens to Canada and Europe. The major items are cut leatherleaf from Florida and foliage and flowering plants from throughout the United States. The United States has a domestic flower and plant industry that equals the size of The Netherlands' and far exceeds the size of that of Colombia (4). Yet, the United States has an industry that has developed to supply its own needs and has never competed on the world export markets. In this regard, producers in The Netherlands, Colombia, and Israel still consider the United States to have potential as a good export market (Table 2).

TABLE 2. ESTIMATES OF DOMESTIC PRODUCTION AND CONSUMPTION OF FLOWERS AND PLANTS IN EUROPE AND NORTH AMERICA IN 1977, 1982, AND 1987.

[Dollars in thousands]

Country	Domestic value					
	1977		1982		1987	
	Domestic production	Domestic consumption	Domestic production	Domestic consumption	Domestic production	Domestic consumption
West Germany	$1,280	$1,975	$1,690	$2,795	$2,085	$3,600
France	810	860	1,175	1,335	1,475	1,720
Italy	800	745	1,100	945	1,320	1,150
The Netherlands	1,015	460	1,620	705	2,135	905
Switzerland	140	210	180	300	225	395
Sweden	120	190	150	270	195	355
Austria	140	180	180	260	225	340
Great Britian	120	145	160	360	195	580
Belgium	170	130	230	210	285	290
Norway	105	120	140	195	170	260
Denmark	145	85	210	120	260	155

TABLE 2. ESTIMATES OF DOMESTIC PRODUCTION AND CONSUMPTION OF FLOWERS AND PLANTS IN EUROPE AND NORTH AMERICA IN 1977, 1982, AND 1987.—Continued

[Dollars in thousands]

Country	Domestic value					
	1977		1982		1987	
	Domestic production	Domestic consumption	Domestic production	Domestic consumption	Domestic production	Domestic consumption
Finland	55	60	70	90	90	115
Spain, Greece and Portugal	110	100	200	200	400	340
USA	1,800	2,000	2,200	2,600	3,050	3,800
Canada	130	180	165	195	245	285
Total	$6,940	$7,440	$9,470	$10,580	$12,355	$14,290

Source: An unpublished report by the Aalsmeer Auction, 1981.

By comparing Colombia and The Netherlands to the United States, an excellent insight is provided on the economic structure of the flower and plant industries in the respective countries. There are about 6,000 floral greenhouse firms in the United States, 8,500 in The Netherlands, and 300 in Colombia. Combining field and greenhouse production areas, the industries in the United States and The Netherlands account for about the same area covered and have similar economic value. However, the average size of the production unit is larger in the United States when compared to The Netherlands, while producers in Colombia have by far the largest production area per firm.

In Colombia and The Netherlands, 100 percent and 85 percent, respectively, of production area is in cut flowers, compared to less than 10 percent in the United States. In the Netherlands, about 10 percent of the total auction sales are of imported flowers. Furthermore, about 85 percent of flowers auctioned are exported and 15 percent are for domestic use. In the United States, imports are very significant and almost all domestic production is sold on the domestic market. Virtually all of the Colombian flowers are exported except for their national grade (lowest quality) and flowers from a few small firms that grow only for the local market.

In The Netherlands, producers have developed an efficient industry that is competitive with foreign imports due to a large degree to mechanization since labor cost is high. Colombian growers have developed a competitive industry in that capital is expensive and labor is not. The U.S. industry is not as mechanized as the Dutch system nor as labor intensive as the Colombian system. The U.S. grower is generally not competitive in foreign markets, because there is a sufficient population to consume production and the grower does not need to be competitive in the world market.

POSTHARVEST HANDLING CONSIDERATIONS

While the time for moving the product among various production and receiving areas of the world has decreased, the assumption that floral product quality should therefore increase is not necessarily correct (2, 7, 16, 20, 21, 27, 39, 53). Often, special procedures and treatments are given cut flowers to prepare the product for transport at the grower/shipper level and are also utilized at the receiving points (19, 26, 27, 52, 59). The following is a summary of the major treatments/procedures utilized to help reduce shrinkage in this international transport system. The authors do not want to suggest that all of these treatment/procedures are utilized in all countries nor does the order of their appearance below necessarily relate to their importance.

Species/cultivars. Alex Laurie once stated that he estimated that 70 percent of the postharvest longevity of floral products is predetermined at harvest (36). Hence, selection of the species/cultivar to be grown is one way producers greatly influence which products will do well after harvest. Since the producers of cut flowers destined for distant markets knew of the possible transportation-related problems, they tended to keep a record of how each species/cultivar performed more than producers who sold flowers locally. Using carnations as an example, it is now believed that 'Seania 3C' is much better than 'Gaiety', that 'Orchid Beauty' cannot be shipped at all, and that 'Yellow Dusty' can only be successfully transported if treated with silverthiosulfate prior to transport.

It would be misleading to suggest that Colombian producers have selected species/cultivars to grow mainly on their postharvest characteristics. Producers in any new growing areas make the initial cultivar selection based mainly on what is available. Also, the selection of cultivars in some of these regions is based on temperature. An example of this was the introduction of the rose 'Visa' in Central and South America because it can be grown at lower temperatures. 'Visa' also happens to have good postharvest characteristics, except that the stem has a tendency to break at the first node below the flower.

There is one final comment regarding the species/cultivars grown by major exporting production areas. In traveling to many of these areas, we have observed that exporting growers are experimenting with new species/cultivars of cut flowers to a much greater extent than the U.S. growers. Also, these exporting growers have been trying new growth regulating chemicals, altering fertilizing techniques, trying new ways of irrigating, etc., and monitoring the effects of these treatments on how the flowers perform after harvest. This observation is especially noteworthy in Central and South America and in Africa where little university/extension assistance has been available. On the contrary, growers in exporting countries like The Netherlands and Israel have had very close ties with government-related research institutes and can thereby often obtain such information from these organizations.

Harvest stage. Again, because travel distances to markets are often long, growers of flowers for export have paid closer attention to the harvest stage of flowers. A good example is the standard carnation. Research has shown that bud-harvested carnations are less susceptible to ethylene and produce less ethylene; hence they last longer than carnations harvested at a more mature stage (10, 11, 22, 23, 40). It is also important to note that more flowers can be packed in a given sized container, thus providing transport economics (1, 24, 30). Knowing this information, Colombian growers have always harvested carnations in the bud stage. In fact, they have two bud stages whereby the flowers for the European market are even tighter than flowers being shipped to the United States because of market expectation and pressure.

Chemical treatments. A wide range of chemical treatments are used after harvest or before shipping. Most noteworthy is the use of silverthiosulfate-type (STS) solutions for carnations to reduce ethylene-related disorders. A historical perspective of the discovery and utilization of STS is in order.

It has been known for years that the silver ion has strong antiethylene properties (8, 18, 28, 38). In the form of silver nitrate, silver has been shown to protect flower stems as a dip and reduce growth in flower preservative solutions (18, 38). However, the main drawback of silver nitrate is that it is taken up by the flower stems very slowly (18, 62). It was not until researchers in The Netherlands formulated the silver ion into a thiosulfate complex which can move rapidly through the stems and into the flowers that this problem was solved (62, 63, 64). This STS formulation has been shown to effectively extend flower longevity and reduce losses (14, 44, 48, 49, 55, 60). A key point regarding the use of STS is that many of the major exporting growers were faster to adopt this new technology than growers producing for domestic sales (50, 51, 56).

Other chemical treatments that are being used to various degrees include cytokinins, citric acid, and pulsing solutions. Cytokinin, mainly in the form of 6-benzylamino purine (BA), is used to retard chlorophyll breakdown in chrysanthemums and statice foliage as a post harvest spray or dip and is used in some flower preservative solutions (17). Citric acid is used alone in water or with a wetting agent and/or microorganism inhibitor as a way to enhance water uptake in chrysanthemums and other flowers after harvest (15). Pulse solutions which contain relatively high levels of sucrose and other compounds (19, 26, 27) are used to treat some flower crops after harvest for the purpose of extending flower longevity at consumer level.

Packaging. Uniformity of grade and packing boxes coming from some exporting countries like Israel and The Netherlands is due at least in part to the government-industry regulations that are in effect. For example, if one examines product flow from The Netherlands one realizes that specific product and packaging regulations are in use. It can be observed that many products funneled through Dutch auctions have the same packaging requirements. Hence, similar packages and packaging techniques can be expected from these exporting countries. On the other hand, products flowing from Central and South American countries do not have any common bond, and yet their boxes and packaging techniques are fairly uniform. While the advantages of uniform-sized shipping containers have been well-documented (31, 52), the reason growers in Colombia, for example, have similar shipping containers is that there is essentially only one major source of these containers in this country.

Other than similar package sizes from like production areas, other packaging uniformities among exporting countries are probably coincidental. For example, use of

ice (41), vapor barriers, flower bunch sleeves, number of holes (36, 59), use of strapping machines, and wax-coated corrugated boxes varies greatly from one source to another as do other procedures. In some cases, the selection of the packaging procedures listed above is due to historical reasons or habit rather than that which is the best procedure and has the highest return on investment.

Temperature management. Proper temperature management is the most important key to successfully shipping flowers (31, 37, 40, 45, 47, 53). Of the major exporting countries, flowers shipped from Israel are probably under the best temperature management program followed by Colombia, The Netherlands, and Kenya. It is surprising that the largest exporter of flowers. The Netherlands, has a minimum number of temperature-controlled facilities and essentially no precooling facilities.

In regard to precooling, the United States took leadership in this area with the first forced-air precoolers going into commercial use in California in late 1977 (19, 21, 53, 59). While vacuum (66, 67, 68) and hydro- (33, 34, 54) precooling of flowers can be done, the economics greatly favor the forced-air type. The flower precooling system used in the United States and in most of Colombia forces air through the ends of the boxes (19, 59). Flowers coming from Israel are also precooled but in a different manner. Regardless of the system, precooling has been defined to mean a process which reduces flower temperature from field or greenhouse temperatures (20 to 30° C) to 1 or 2° in 1 hour or less of cooling time. By using this definition, we can disregard the claims of many growers that they precool their flowers when indeed cooling times may take 21 or more hours.

Mechanically refrigerated storages are in ubiquitous use at most production sites or at airport transfer points. Major exceptions to this are at most South and Central American and African airports, where there is almost a complete lack of refrigeration facilities. However, flowers from South and Central American areas are precooled after harvest but are in nonrefrigerated areas for various time periods until their arrival in London, Amsterdam, Miami, Frankfort, or some other importing location. At that time, the warm flowers may be placed back into refrigeration or in fact are precooled for either the first or second time.

To help reduce temperature-induced problems of Colombian-grown flowers, many importers in the Miami area have built precoolers in order to lower flower temperatures. Also, many growers have chartered night flight airplanes to facilitate product movement at the coolest part of the day. A typical example is that when flowers are harvested in Colombia, they are cooled at the farm on the same day for shipment that evening. On arrival in Miami early the following morning, the flowers would be precooled down to a reasonable low temperature by 1400 HR the same day.

Depending on the species, flowers being exported by The Netherlands and Kenya may not be placed into a refrigerator until they arrive at the port of entry. Very few, if any, of these flowers are precooled upon arrival.

Transportation modes. The distance between and location of production and consumption points often dictates the type of transportation mode utilized. Except for the shipment of flowers among European countries, most flower transport systems involve airplanes. Studies have well-documented the advantages and disadvantages of airplane flower transport (7, 20, 21, 32, 39, 53, 61). However, it must be stated that airplane-induced flower problems occur on the ground at airports and not in airplanes themselves. It is at these transfer points that temperature control can be lost and ethylene-induced disorders enhanced (9, 29). Once flowers arrive by airplane at the entry ports, it is equally likely that the flowers would be shipped by truck as by air, with the former gaining a greater share of the market as the industry expands (2, 20, 53).

Israeli exporters have been experimenting with the transport of flowers by ship to Europe (25, 42, 43, 65). It is expected that sea transport of cut flowers will increase as more sophisticated temperature and relative humidity-controlled sea/land containers are developed. Even more sea transport of flowers could be realized if hypobaric systems (12, 13, 46, 57) are determined to be economically feasible. Hence, flowers grown in Africa could theoretically be shipped by sea to the United States. Trial shipments from South America to Europe have been made with flowers using conventionally refrigerated sea/land containers with limited success.

CONCLUSION

The international movement of floral crops will certainly increase in the future, no doubt at greater rates than they have in the past. The success of any exporting country will be dictated by the abilities of producers in those countries to be cost effective in producing floral crops and maintaining high quality standards for crops from production to consumption sites. The Netherlands, as the major exporting

country for floral crops, will need to look to markets outside Europe in order to maintain and improve its vitality. Further increases in per capita flower purchasing in Europe will be difficult to obtain. Producers in less-developed countries, such as Kenya and Colombia, will have to be continuously innovative in their crop production and handling procedures and will also have to balance carefully the capital and labor costs in order to compete effectively in the extremely competitive foreign markets. Much of the success in the future in the international movement of flowers and plants will be dictated by the ingenuity of entrepreneurs in expanding per capita flower consumption, especially in the United States, since the United States is the single greatest potential source for increased consumption. On the contrary, any attempts to have governmental flower trade barriers established will only hinder total floral sales, regardless of where they are produced.

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[From the California Florist, February 1983]

Your Valentine Rose

Mention Valentine's Day and the word "flower" in a word association game and most will respond by identifying the flower as a "rose."

To understand how this close association came to pass, however, we must look to history and mythology.

Early man has handed down from many lands to present day man a wealth of stories about the rose. Stories which delight the young as well as the old, and for which we cannot really find their beginnings, but the telling goes on and on.

Just stories you say? Ah, can so many cultures and people be wrong? We think not. Had they been just a story, they would have died and faded into antiquity. Instead, history has handed down to us all the rose stories from all the lands and they blossom anew with each telling . . . just as each day brings us new and fresh rose blossoms.

Perhaps the beginning of the rose, as told in Greek legend, best explains the origin of the rose, and its affiliation with romantic and special secret things in all our lives.

Greek legend says that early one morning as Flora, goddess of all flowers, was walking through the woods she came upon the dead body of a beautiful young girl. Flora was saddened to see such a lovely creature dead and she decided to give her

new life by transforming her into the most beautiful of all flowers. To accomplish this she called on all the gods of Olympia to aid her in the task. She asked her husband, Zephyrus, the west wind, to blow away all the clouds so that Apollo, the sun, could send warm rays of blessings over the dead form. Flora then called Aphrodite to give beauty and the three graces (brilliance, joy and charm) to this new flower. Next Dionysius, the god of wine, was to add the final touch by giving fragrance and nectar. When all was done the gods and goddesses admired their work and declared this the most beautiful of all flowers. The goddess Flora then gathered dew drops and gave the new flower life and crowned her the queen of all flowers.

Flora then called upon the goddesses, Aurora and Iris, to spread the word of the new flower's beauty. Aurora borrowed the hue of the rose with which to paint the morning sky and to dye the blushes of the wood nymphs so that all could see its beauty. Iris borrowed only a tinge of color from the new flower with which to add brilliance to her rainbows.

Aphrodite was asked to provide the name for his loveliest of all flowers. She gave the name of rose, in honor of her son Eros, the Greek god of Love. (If we rearrange one letter of the word rose, we have Eros — Eros = Rose = Love.)

Flora then presented the rose to Eros, in hopes that it would always be the choice of lovers and the flower of romance.

In time Eros gave the rose to the god of silence, Harpocrates, to bribe him to conceal the weaknesses of the gods. From this, the rose became a symbol of silence and secrecy as well as love. In ancient times, a rose was attached to the ceiling of council chambers, meeting rooms and confessionals as an indication that everyone present under the rose was sworn to secrecy.

With a beginning like this, added to the fact that the rose is one of the oldest flowers in evolution, being grown for over 5,000 years, with large rose farms developing for the making of perfume and expensive rose attar the story tellers of the past, plus the physical properties of the rose itself could not help but cast its lot in the 20th century as the flower of love.

Those who doubt this assignment of the rose need only read in history that the lovely Cleopatra once greeted Mark Anthony on a carpet of rose petals eighteen inches deep, and when she went sailing for pleasure she drenched the sails of her ship with rose perfume so that the very winds were lovesick and they should be convened.

The commemoration of St. Valentine of February 14th brings about a further blend of fact and fiction which has grown to mold modern tradition.

Valentine was a holy priest in Rome, who, with St. Marius and his family, assisted the martyrs in the persecution under Claudius II. Apprehended, he was sent by the emperor to the prefect of Rome, whereupon he refused to renounce his beliefs and was commanded beaten with clubs and beheaded on February 14th in about the year 270. In his work among the people, Valentine is reported as a kindly, nature loving man who worked constantly to bring young couples together, resolving many of the problems of youth so they could meet the challenges of the world ahead of them.

History also shows that people once believed that the birds began to select mates on February 14th, and that day of the year was also dedicated to Juno, the wife of Jupiter, queen of heaven, and goddess of light, beginnings, birth, women and marriage.

In honor of Juno a custom arose of boys drawing the names of girls on February 15. Considered a heathen's lewd superstition zealous pastors substituted the names of saints in the drawing boxes, and it is assumed because of the proximity of St. Valentine's Day of honor that his name appeared frequently on these substitute drawing cards. Thus, we have a Valentine tie to present day, Valentine's selecting of a special person and giving of cards and gifts.

Over the years the history and myth of the rose and St. Valentine have combined to bring us today's treasured customs and we hope everyone takes a little of this culture to treasure and develop as his or her own way to observe this special day of friendship and love.

As in days of old the rose continues to carry its own message. A red rose has long been symbolic of love, respect and courage. Often the deeper the red the more love the rose is thought to convey.

A pink rose carries the message "you're gentle and graceful" Deep pink says "thank you" while light pink conveys admiration and sympathy.

The white rose has four different meanings: Innocence and purity, "I am worthy of you," "you're heavenly," and secrecy and silence.

The yellow rose signifies joy, gladness or a message "try to care more."

Although the presentation of a dozen roses is oft a thought of a gift by romantics, Roses, Inc., the national Trade Association of commercial fresh rose growers notes that over half the fresh roses purchased in the U.S. are in less than dozen quantities.

Mr. FLOWERS. I will be very brief.

Roses, Inc., a trade organization of domestic rose growers, has sought import restrictions on cut roses for several years, and has pursued several avenues, including escape clause, countervailing duty, and antidumping petitions. As my statement indicates, they have had only the most limited success, and therefore have appealed to Congress to radically increase the tariff on roses bypassing the normal procedures for dealing with these matters.

FTD is opposed to this same tariff. We opposed the same tariff increase in the 97th Congress, which was H.R. 6239, and we strongly oppose the identical bill now before you, H.R. 1146. FTD supports the domestic industry in many ways, as my full statement makes clear, and it opposes what we consider unfair trade practices, such as subsidies paid to foreign producers which violate GATT procedures, but it resolutely opposes trade restrictions having the apparent purpose of limiting supplies and increasing prices of roses to retailers and consumers.

Such a restriction of supply, which under this bill would have the greatest impact when the demand for roses is the greatest, does more than work a hardship at the consumer level. The proposed tariff increase from 8 percent to a maximum of 24 percent, and I disagree with some of the arithmetic I heard; I think that is an increase of 300 percent—comes at a time when economic indicators point to unprecedented growth in our industry over the next decade.

Realistically, the situation we face is one in which supply of all cut flowers, not just roses, will not equal the demand. Even more fundamental, artificial restrictions of supply may very well discourage the investors this industry must attract if it is to realize its immense potential.

I invite your attention to page 4 of my statement, which describes the ways in which we have supported and continue to support the domestic industry, but on the whole, domestic production is already inadquate for our requirements of retail during the peak periods of the year, and especially at Valentine's Day and other flower holidays.

As a result, prices at those times are already at a level which earns us negative publicity, and more and more are turning the consumer away from roses. We believe with the substantially larger promotional budget and prospect for our industry—FTD is still the industry's major consumer advertiser—all our efforts should be directed to expanding what many observers believe is an underpromoted, underdeveloped market for our products and services.

We believe that H.R. 1146 is an artificial and damaging restriction on our ability to market our product, and we urge this committee to reject it completely.

Thank you. I will be glad to answer any questions if you like, sir.

Chairman GIBBONS. Well, thank you, Mr. Flowers.

Let us hear from the rest of our witnesses. Our next witness is representing Flowers Antigua, Inc., with Ms. Lavinia DeNood.

STATEMENT OF LAVINIA DeNOOD, PRESIDENT, FLOWERS ANTIGUA, INC.

Ms. DeNood. My name is Lavinia DeNood. I was born and raised in Massachusetts. I now operate a small business based in Peterborough, N.H.

Chairman Gibbons, H.R. 1146 is a classic case of what is good for a special-interest group versus what is good for the nation as a whole. The association of domestic rose growers, Roses, Inc., which has appeared in favor of this legislation, represents only a small portion of the total rose industry. According to its own statement, it represents 190 grower members. Weigh against this number the millions of Americans adversely affected by this legislation in the following areas.

First, retail price of roses. Increasing the tariff on roses would create a shortage. Prices would go up, and demand would go down, hurting the entire distribution chain of small businessmen, and ultimately the American consumer; 90 percent of the floral industry is made up of floral shippers, wholesalers, and retailers. Growers represent slightly less than 10 percent.

Second, the U.S. relationship with its Caribbean neighbors is an aspect of national security of prime importance to this Congress and to all Americans. The benefits of a trade, not aid, policy with the Caribbean nations is one which I have come to know intimately through our rose operation in Guatemala, and it is this area which I would like to address in some detail.

We have a small, successful, but vulnerable capitalistic enterprise now operating in New Hampshire and in Guatemala. It is precarious enough to start a business in Guatemala, and the proposed 17- to 24-percent duty would heavily penalize us. We are putting all private funds into our enterprise in Guatemala and making it work through innovative marketing techniques, effort, and private investment, not through subsidies of any kind either from Guatemala or from the United States.

Our expenditures in the United States last year were $225,000, which went for professional fees, services, salaries, and supplies. These supplies include a long list of materials and technology which we shipped to Guatemala—chemicals, polyfilm, packaging, tools, gages, cooling equipment, sealing equipment, and U.S. rose nursery stock. Equally important as this high grade U.S. equipment and technology which we bring to Guatemala are the U.S. management techniques which we introduce.

We are providing over 70 full-time jobs to a Guatemalan farming population which had never before known steady pay, a clean working environment, full medical and health benefits, regular raises and bonuses as productivity incentives, and many other management techniques. With these, we are teaching the indigenous Guatemalans responsibility, confidence, knowledge, and a loyalty to American enterprise.

And here I could cite any number of examples to show how, as a month goes on, you can recognize among the indigenous people the

incentives that they are learning, the initiatives that they are learning, none of which is a part of their normal culture. They have on our grounds created a park, all of their own doing, to which they come and take their family photographs. They have donated trees on their own to enhance the area.

They came up with a surprise birthday party for our manager, paying for all of the festivities and toys and party games and so on, all with their own money. It is a joke in the community, in fact, that if you ride a bicycle, well, you must work for Flowers Antiqua because you get paid better.

We certainly have a strong impact in that area. Just as you, Mr. Gibbons, have stated, there is a critical need for the Caribbean Basin Initiative because of the dire straits which these countries are in. Action by the U.S. toward improving their economies can mean the difference between their survival and their nonsurvival.

So, too, the example of our small enterprise is actively demonstrating in Guatemala the advantages of a capitalistic system. We are in Guatemala because the climate and soil are ideal for roses. We have more daylight hours. The climate permits us to grow a quality and variety of roses that compliments and does not compete with domestic-grown roses.

We are expanding U.S. rose sales, not stealing rose sales. We ship to the U.S. because it is our natural market. The east coast is just 2 hours by air, or 1,000 miles from Guatemala. California growers are a minimum of 6 hours and 3,000 miles distant from the east coast. It is suggested in the bill, H.R. 1146, that European tariffs drive off-shore-grown roses to the U.S. market.

It is not tariffs but sheer logic. It costs us 27 cents a pound on Pan Am to ship from Guatemala to Miami, a 2-hour flight. It would cost us $1.56 a pound to ship from Guatemala to Amsterdam, a minimum of 13 hours excluding the time it would take for the cargo to change air carriers.

The United States is the natural market for Guatemalan roses. We can grow them more naturally and we can ship them more economically. Both growing and shipping are tied to fuel consumption, which brings me back to my very first point, which I now summarize. An increased tariff on rose imports is counterproductive to the national interest in that it would encourage increased fuel consumption by domestic rose growers.

It would raise the price of roses to both the florist and the consumer and it would conflict with a major objective of the Caribbean Basin Initiative, legislation characterized by Mr. Bill Frenzel, a member of this committee, and I quote, "as an important foreign policy statement by the U.S. which will also help economically distressed Caribbean nations."

A business like rose production is climatically suited to the Caribbean Basin and ideally fulfills the administration's Caribbean Basin Initiative, whose centerpiece is free trade for Caribbean products.

Chairman GIBBONS. Thank you very much.

Mr. Nordlie.

[The prepared statement follows:]

STATEMENT OF LAVINIA DENOOD, PRESIDENT OF FLOWERS ANTIGUA, INC.

Chairman Gibbons and Members of the Committee, H.R. 1146 is a classic case of what is good for a special interest group versus what is good for the nation as a whole. The association of domestic rose growers which has appeared in favor of this legislation represents only a small portion of the rose industry. According to its own statement made in this chamber, it represents 190 grower members. Weigh against this number the millions of Americans adversely affected by this legislation in the following areas:

First, U.S. fuel consumption: It is not in the national interest to encourage a luxury crop which is dependent on high fuel use. Historically, greenhouses were built when fuel was cheap. Encouraging allocation of expensive and depletable fuels through tariffs on imported roses is not consistent with sound environmental planning.

Second, retail price of roses: Increasing the tariff on roses would create a shortage; prices would go up and demand would go down, hurting the entire distribution chain of small businessmen and, ultimately, the American consumer. Approximately 90 percent of the floral industry is made up of floral shippers, wholesalers, and retailers; growers represent slightly less than 10 percent.

Third, U.S. relationship with its Caribbean neighbors: An aspect of national security of prime importance to this Congress and to all Americans. The benefits of a "Trade not Aid" policy with Caribbean nations is one which I have come to know intimately through our rose operation in Guatemala, and it is this area which I would like to address in some detail.

We have a small, successful, but vulnerable capitalistic enterprise now operating in New Hampshire and Guatemala. It is precarious enough to start a business in Guatemala, and the proposed 17-24 percent duty would heavily penalize us. We are putting all private funds into our enterprise in Guatemala and making it work—through innovative marketing techniques, effort, and private investment—not through subsidies of any kind, either from Guatemala or from the U.S.

Our expenditures in the U.S. last year were $225,000 which went for professional fees, services, salaries, and supplies. These supplies include a long list of materials and technology which we ship to Guatemala: chemicals, polyfilm, packaging, tools, guages, cooling equipment, sealing equipment, and U.S. rose nursery stock.

Equally important as this high grade U.S. equipment and technology which we bring to Guatemala, are the U.S. management techniques that we introduce.

We are providing over seventy full time jobs to a Guatemalan farming population which had never before known steady pay, clean working environment, full medical and health benefits, regular raises and bonuses and productivity incentives, and many other management techniques that are teaching the indigenous Guatemalans responsibility, confidence, knowledge, and a loyalty to American enterprise. Just as Mr. Sam Gibbons, Chairman of the House Ways and Means Subcommittee on International Trade, stated in these chambers: "There is a critical need for the Caribbean Basin Initiative because of the dire straits which these countries are in. Action by the U.S. towards improving their economies can mean the difference between their survival and non-survival"; so the example of our small enterprise is actively demonstrating in Guatemala the advantages of a capitalistic system.

We are in Guatemala because the climate and soil are ideal for roses. We have more daylight hours. The climate permits us to grow a quality and variety of roses that complements, does not compete with domestic grown roses. We are expanding U.S. rose sales, not stealing rose sales.

We ship to the U.S. because it is our natural market. The East Coast is just two hours by air, or 1,000 miles, from Guatemala. California growers are a minimum of six hours and 3,000 miles distant from the East coast.

It is suggested in the bill HR 1146 that European tariffs drive offshore-grown roses to the U.S. market; it is not tariffs but sheer logic: it costs us .27/lb. on Pan Am to ship from Guatemala to Miami, 2 hours non-stop. It would cost us $1.56/lb. to ship from Guatemala to Amsterdam, minimum 13 hours by air, excluding the time required for the cargo to change air carriers.

The United States is the natural market for Guatemalan roses: we can grow them more naturally and we can ship them more economically. Both growing and shipping are tied to fuel consumption, which brings me back to my very first points, which I now summarize.

An increased tariff on rose imports is counterproductive to the national interest in that it would encourage increased fuel consumption by domestic rose growers; it would raise the price of roses to both the florist and the consumer; and it would

conflict with a major objective of the Caribbean Basin Initiative, legislation characterized by Mr. Bill Frenzel, a member of this committee.

As "an important foreign policy statement by the U.S. which will also help economically distressed Caribbean nations." A business like rose production is climatically suited to the Caribbean Basin and ideally fulfills the Administration's Caribbean Basin Initiative, whose "centerpiece" is "free trade" for Caribbean products.

STATEMENT OF JAMES O. NORDLIE, PRESIDENT, NORDLIE, INC.

Mr. NORDLIE. Thank you, Mr. Chairman. Again, I will present a summary.

I am James Nordlie of Detroit, Mich. My firm wholesales cut flowers from locations in seven Midwestern cities. We operate in three growing ranges—two in Ohio and one in Guatemala, Central America. Ours is a family business, my father having started it in 1928.

Roses, Inc., the trade association of domestic growers, is asking this committee to increase tariffs on imports of cut roses from 8 percent to a two-tier system of 17 and 24 percent, depending upon the time of year. I believe that Roses Inc. should be required to demonstrate conclusively injury or the threat of injury to domestic producers from imports, and again I urge that they should show injury, actual injury, and I think that I have not heard that question addressed.

Inasmuch as they are really asking Congress to limit access to the U.S. markets by foreign producers, an action that would increase prices at the consumer level, in my statement I make the following points, and I would be glad to answer your questions regarding them.

The U.S. plant count of Roses Inc. members is approximately the same in 1982 as it was in 1979. There was a decline of roughly 107,000 plants, according to Roses Inc. data, which is about equal to the production in this country of one medium-sized rose grower. But Roses Inc. membership is substantially less than 100 percent of the rose growers in the United States, and thus I do not believe it representative.

Production in California in terms of number of plants has substantially increased, which, if coupled with production of non-Roses Inc. members, means that the total U.S. plant count is probably greater today than it was in 1979.

The number of U.S. rose growers declined by 6 percent between 1977 and 1981, according to USDA, with a much larger exodus taking place prior to 1977 when imports were a negligible factor in the market. I believe growers leave the business for many reasons, including the changing real estate value of the land used for rose production, lack of heirs in the family, poor management, unwillingness to modernize, and the inability to produce a consistently acceptable product.

My firm grows at two locations in Ohio and one in Guatemala. Where former owners had failed to make a profit in Newtown Falls, Ohio, we produced a profit in the second year, that is, of our operation, and have improved this performance ever since. Our success has been such that we have recently taken on another previously failing range in Olmsted Falls, Ohio, and expect to turn a

profit the first year. Remember that both of these ranges are in high-energy-cost locations, north-central industrial United States.

After 3 years, we are just beginning to turn a profit in Guatemala. I invite your attention to the description in my full statement of some of the costs of doing business in Central America that are conveniently overlooked by domestic growers anxious to bar foreign-grown roses from the U.S. market.

Roses Inc., by its own statements, clearly demonstrates that business has never been better than it has been in the last 3 or 4 years, despite the recession, with the roses market segment outperforming every other major segment of the floral market and breaking records in the process, and this is all in my full statement.

In view of the severe shortages of roses in critical market periods, such as Valentine's Day, and the high cost of roses, as things are now it would appear that two conclusions are justified—one, that the domestic rose industry is not being injured by imports and, two, that without imports we might see prices of roses rising at unwarranted and undesirable rates, which in the longer term would be detrimental to the members of Roses Inc. and the American consumer.

I believe the imposition of higher tariff rates, as requested in H.R. 1146, is unwarranted and would be contrary to the long-run best interest of the florist industry, the U.S. consumer, and our international trade interest.

Thank you and I would be pleased to answer your questions.

[The prepared statement follows:]

PREPARED STATEMENT OF JAMES O. NORDLIE, PRESIDENT, NORDLIE, INC., DETROIT, MICH.

Mr. Chairman and members of the committee:

My name is James O. Nordlie. I am from Detroit, Michigan. We are wholesalers of cut flowers, with locations in 7 midwestern cities. We also operate 3 rose growing ranges, two in Ohio and one in Guatemala, Central America. The name of our company in the U.S. is NORDLIE, INC. The name of the rose farm in Guatemala is NORCAFE, S.A. Ours is a family business, my fathe having started it in 1928.

Roses, Inc., to justify an increase in US tariffs, and/or to limit access to US markets by producers of foreign roses, ought to be required to show injury or threat of injury to US rose producers caused by the entry of foreign production.

Roses, Inc. data shows that its members had 15,741,000 rose plants in production in the entire U.S. at the end of 1979. The same statistics show that Roses, Inc. members had 15,634,000 plants in production at the end of 1982. Although the plant count is approximately the same, this is not necessarily an indication of the general health of the industry, since not all rose growers are members of Roses, Inc. Its pool of members is constantly changing, with some entering and some leaving for various reasons, and Roses, Inc. does not claim to represent 100 percent of U.S. rose growers.

With this in mind, let's see what is happening in California, which produces roughly 40 percent of the cut roses grown in the U.S. If we compare the plant count in California for the same Roses, Inc. growers in 1979 versus 1982, we find an increase of 866,000 plants, which represents an increase for those growers of roughly 50 percent. And this increase does not include a chrysanthemum grower who switched crops to roses and now has 364,000 plants at last count. If California is any indication, the total

U.S. plant count, including non-members of Roses, Inc. is probably greater today than it was in 1979.

Mr. James Krone, in his statement to the Trade Subcommittee of the House Ways and Means Committees on May 26, 1982 stated, "....since 1972 the number of rose growers has decreased from 317 to 222." However, in August, 1982, Roses, Inc. stated that oetween 1977 and 1981, the number of US rose growers counted in the USDA Floriculture Crops declined by a little more than 6%, from 237 in 1977 to 222 in 1981.

Comparing these figures, we find that of the 95 going out of the rose growing business, 80 of them left the industry before 1977, a period when the number of foreign roses entering the US market was so insignificant that the figures were not even monitored or of any concern to domestic growers.

My next comments concern what I term the BLUNDERBUSS approach which Roses, Inc. is taking in this effort.

Their approach is similar to the farmer who he has one sick chicken in his barnyard...so he takes his blunderbuss and kills them all.

The bill in question focuses on the tariff rates of the EEC, when the true cause of their concern is Colombia, SA. Although it is not a proven fact that the entry of Colombian production is harmful to US producers, by using the blunderbuss approach, together with some sleight of hand, they hope to eliminate or substantially change the competitive status of all foreign producers.

It is interesting to note that while the bill seeks to tie proposed tariff rates to the EEC levels, the only country of the EEC group shipping roses to the US market is Holland. According to U.S. Department of Agriculture data, imports entering the U.S. from that country through February 26, 1983, are down by 40.06%. The number of blooms listed is 425,000, which on an annualized basis, is equal to the production of one medium rose grower (approx. 125,000 plants). I believe that when we use a catch-all tariff of this nature, striking at all producing countries, both large and small, we look more and more like the Japanese, whom we criticize severely for not allowing us into their automotive markets. They have a positive balance of trade with us, and yet they continue to hold us at a disadvantage, through the imposition of high tariffs.

We likewise have a positive balance of trade with the Caribbean Basin countries, and most of South America. Yet, once they find a small product niche, by international standards, we talk about taking steps through the use of tariffs to effectively lock them out.

Thus, we again push them back into a dismal economic situation, and in turn must lend them money, which they cannot repay because they have no market for the product which their land affords them to produce. The old adage "aid or trade" indeed has meaning for us.

Roses, Inc. in their arguments point to the sizeable percentage increases in shipments from Guatemala, the country where my farm, NORCAFE, SA is located. Let me say that in too many cases the use of percentages do not give a true picture of the situation.

Let me illustrate: A recent banner headline in a Detroit paper dated April 21, 1983, shouted, "GM PROFIT SURGES TO 33 MONTH HIGH." This may sell newspapers, but is not representative of the true situation, as this committee knows.

Likewise, in the April 1983 Roses, Inc. BULLETIN, it is stated that imports from Guatemala rose by 86% from 1982 to 1983. ('82 = 352,000 vs '83 = 657,000). To put these figures in perspective, there are 2 growers in Guatemala, to my knowledge, who export to the U.S. This '83 production figure annualized represents the production of less than 300,000 plants. And there are 7 rose growers in California alone listed in the Roses, Inc. membership who individually exceed this amount. And this does not include non-members.

Again, to put it in perspective, the total of rose plants in Guatemala production of which is being exported to the U.S., represents less than 3% of the rose plants in California alone, not including the plants of non-members of Roses, Inc.

And now I come to my "unique point of view" argument, simply because I am both a foreign and a domestic producer of Roses.

Three and one half years ago my father and I started a small rose farm in Guatemala. Last year, after 3 years, we finally turned a small profit.

Three years ago our company, Nordlie, Inc. bought a rose range in Ohio, consisting of 130,000 square feet of glass holding 94,000 rose plants. After a series of loss years, and the near exhaustion of their working capital, the former owners sold it to our firm at a very reasonable price. Losses in their last year of operation exceeded $70,000.

In our first year of operation we lost $16,000.

In our second year of operation we made $32,000.

In our third year of operation we made $70,000.

This year we fully expect to improve on these results.

In the first year we invested $144,000.

In the second year we invested $273,000, including $196,000 in a gas well, the production of which has barely paid for the interest of the funds invested.

During the third year of ownership, we invested $284,000, making a total of $701,800. And all of this investment excepting $200,000 was generated from internal cash flow.

As previously stated, according to Roses, Inc., 6% of the rose growers left the industry between 1977 and 1982. We cannot assume these exits were caused by market pressure from imported production. A major cause of failure can be attributed to improper or inadequate marketing.

For example: the prices received per dozen of roses marketed by our Newton Falls, Ohio range from 1979 (under former owners) through 1982 ('80 thru '82 under our operation) are as follows:

Hybrid Tea Roses:	'79	$5.00/dz.
	'80	5.71
	'81	6.49
	'82	7.35
Sweetheart Roses:	'79	$2.48/dz.
	'80	3.74
	'81	4.06
	'82	4.78

It is easy to see how effective marketing can change the bottom line.

We are so pleased with our results in Newton Falls, Ohio that we have recently taken on another rose range in Olmsted Falls, Ohio consisting of 150,000 square feet of glass and 120,000 plants. Although the former owner was in the process of shutting it down when we took over, our manager in Ohio, Mr. Charles Ashton, expects to make a profit the first year of operation.

All this in the high energy, expensive industrial North Central United States; not in sunny California, where conditions are more favorable.

In the area of comparative advantages and disadvantages, the following are worth noting. Although we have no heat costs in Guatemala, nor are the roses in Colombia heated, we can heat a rose in Ohio for roughly 4.7 cents. But offsetting this, although we have no heat costs in Guatemala, it costs us between 8 cents and 13 cents in airfreight, customs and tariff charges to get a rose from Guatemala City to Detroit, Michigan, depending on how many roses are packed in a box.

Also, because of low night temperatures when growing in the high plateau areas of Central and South America, the number of stems (flowers) produced per plant is approximately 25% less than the number produced per plant by a US rose grower.

We also find that practically all costs, with the exception of labor, are anywhere from 25% to 100% higher in Guatemala than in the United States. These include shipping cartons, tools, fuel, electricity, pesticides, fertilizers, and especially anything which we must bring from the U.S.

Harking back to the statements concerning the rose growers who have left the industry during the last 5 years, I wonder if it has been documented as to the number of these growers who have gone out of business specifically due to pressure of imports?

I believe most rose growers go out of business for one of the following reasons:

1. The grower finds himself in his senior years with an old rose range in the path of suburban growth near a major metropolitan area, and cannot resist the price of land per acre.

2. Lack of planning for management succession, and for the last 10 years has taken almost total cash flow out of the business, with little or no attempt to modernize production facilities.
3. Inability to market product effectively (as previously stated).
4. Inability to produce a consistently acceptable product.

In June, 1982, Roses, Inc. said that in just four years, roses-as-roses sales to consumers grew by a whopping 58%, and by 1981, had reached %547.4 million at retail. All roses, including those used in mixed bouquets, registered retail sales of nearly $800 million during 1981.

They also said that stem sales of roses-as-roses grew by some 21.9%, while total US availability grew from a reported 429.4 million in 1977, to 492 million in 1981, a gain of almost 15%, and that prices for roses-as-roses in 1981 moved to $1.80 through florists, compared with $.91 charged by non-florists. Versus 1977, these prices represent a 39.5% gain for the florists, and a 47% increase for the non-florists. In the same period reported grower prices received increased by 41%, to 26.5 cents in 1981.

In January, 1983, Roses, Inc. said that more roses-as-roses were sold during May 1982 than in any previous month on record. Indeed, the more than 40.1 million stems moved to the consumers generated a whopping $71.6 million in retail cash register rings just for the month of May (1982).

This performance found roses-as-roses in May 1982, ahead of the previous year by a full 25% in dollars, and nearly 18% in stem sales. Going back even further, the May 1982 activity put roses-as-roses more than 26% ahead of 1977 in stems, and 99% above the 1977 May dollar levels--double for all practical matters and they go on to say that the roses-as-roses market segment outperformed every other major segment of the floral item market in virtually every measurement for May 1982 versus May 1981--and broke records in the process.

In view of these findings, it would appear that without foreign production, we might see prices of roses rising at an unwarranted and undesireable rate especially at peak demand periods of the year.

There is another sound in the floricultural marketplace today, and it is the sound of a bull market in flowers. We are just now seeing the tip of the iceberg, but the signs are unmistakeable. The interest in flowers, and especially roses, is growing rapidly.

This last week I lost an order for 150,000 stems of flowers. I would have been able to supply carnations, but the buyer wanted roses, which I could not supply in that quantity. Yes, the buying organization was a large supermarket chain. I believe our industry will be astonished what their exposure of our products to the consumer will do for total demand in the industry.

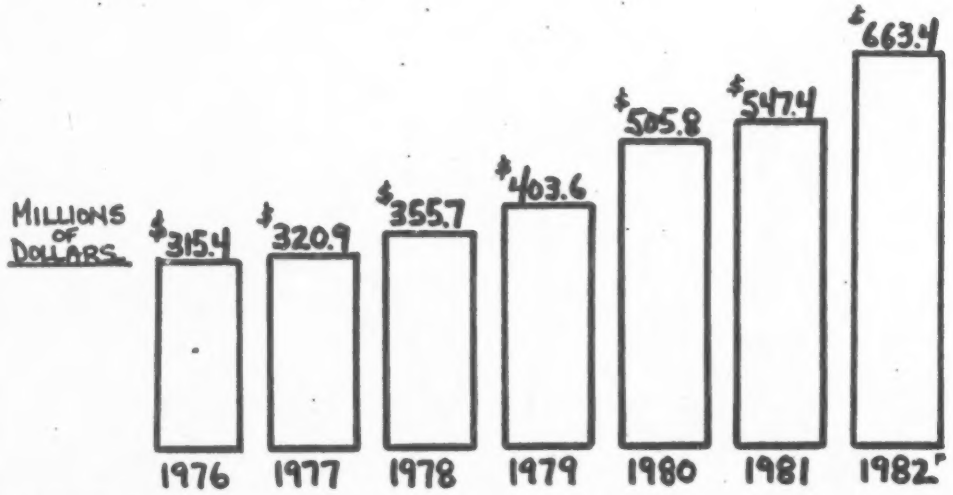
How many orders for 150,000 stems of roses does it take to prove that foreign production is not a threat, but is actually needed to assist in building a strong and consistent market for our product.

The interest of large and sophisticated marketing organizations, together with the potential of new promotional programs within our industry, which are just now coming off the drawing boards, promises a bright future for the floral industry, and especially for the producer of roses, both in this country and beyond.

In closing, let me say that I believe the imposition of higher tariffs, as requested in H.R. 1146, are unwarranted and would be contrary to the long run interests of the floral industry, the U.S. consumer, and our international trade interests.

ROSES AS ROSES
RETAIL DOLLAR SALES ARE INCREASING

CHART NO. 1



% CH. VS. YR. AGO:	NA	+2%	+11	+13	+26	+8	+21
% CH. VS. 1976:	NA	+2%	+13	+28	+60	+74	+111

P: Preliminary

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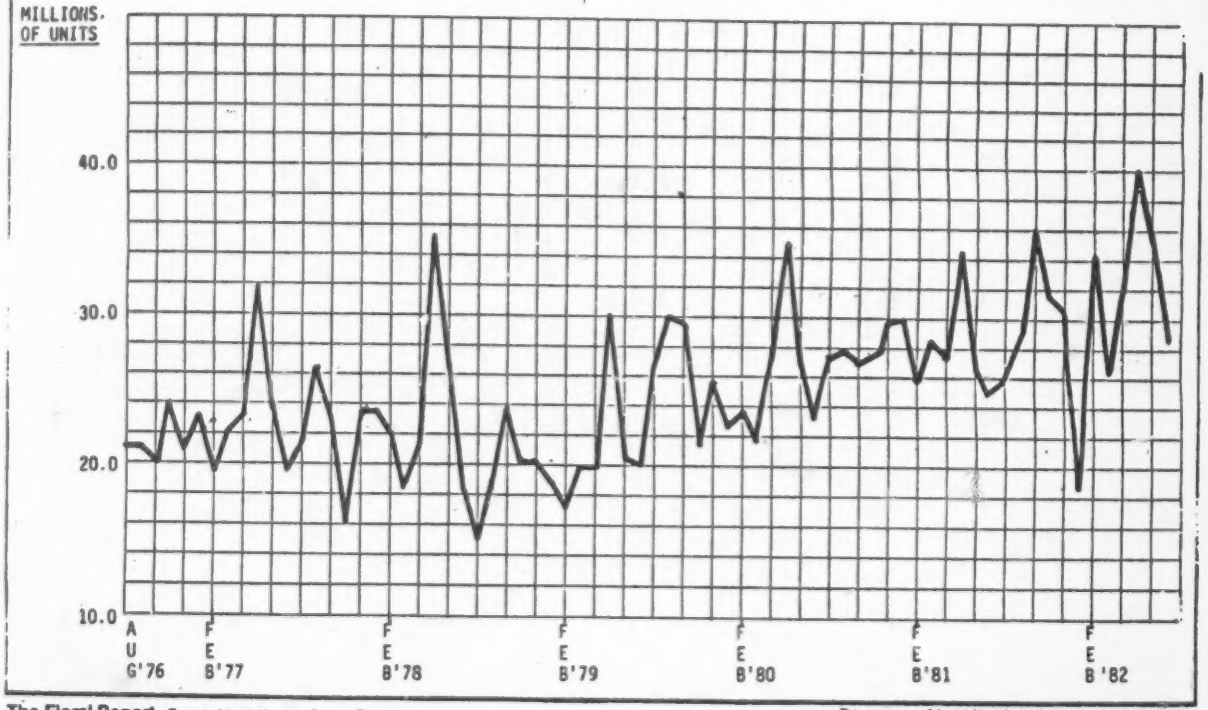
CHART NO. 2

ROSES AS ROSES

MONTHLY UNIT SALES



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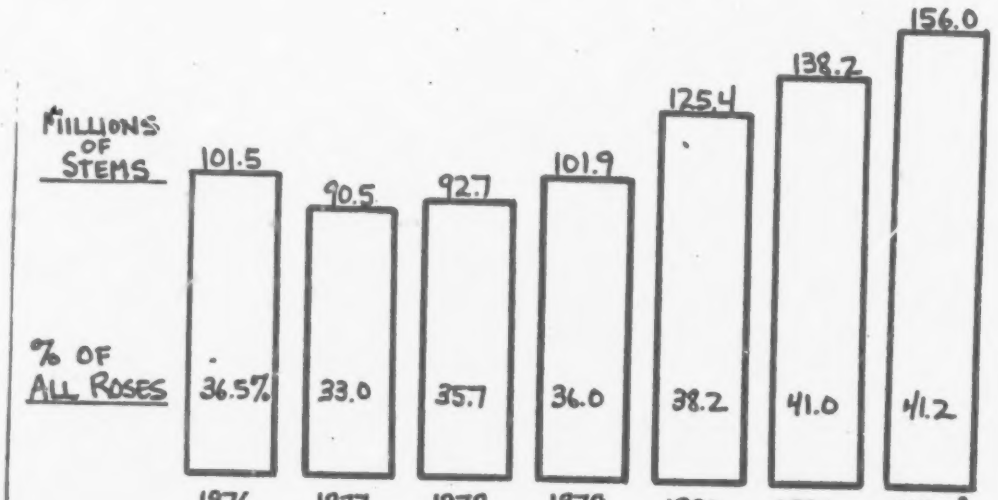
Roses As Roses
Important Gift Items

CHART NO. 3



	1976	1977	1978	1979	1980	1981	1982P
% Ch. Vs. Yr. Ago:	NA	-11%	+2	+10	+23	+11	+13
% Ch. Vs. 1976:	NA	-11%	-9	=	+24	+36	+54

P = Preliminary

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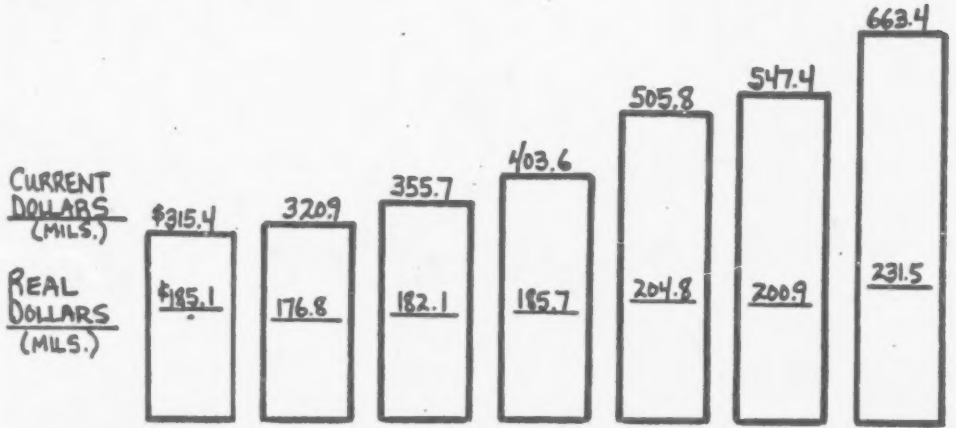
Roses As Roses
Growth In Real Dollars Too

CHART NO. 4.



REAL DOLLARS	1976	1977	1978	1979	1980	1981	1982P
% CH. VS. YR. AGO:	NA	-4%	+3	+2	+10	-2	+15
% CH. VS. 1976:	NA	-4%	-2	=	+11	+9	+25

P = Preliminary

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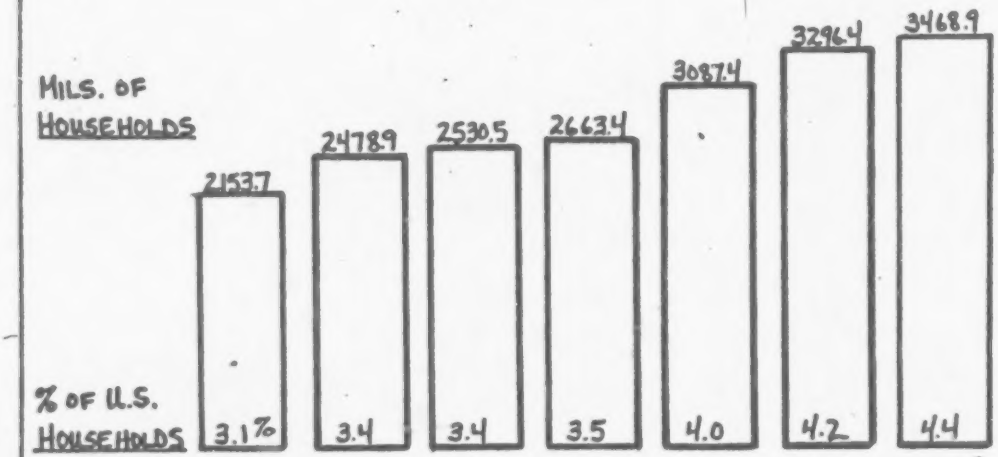
ROSES AS ROSES

CHART NO. 5

HOUSEHOLDS BUYING IN AN AVERAGE MONTH



	1976	1977	1978	1979	1980	1981	1982 P.
% CH. VS. YR AGO:	NA	+15%	+2	+5	+16	+7	+5
% CH. VS. 1976:	NA	+15%	+17	+24	+43	+53	+61

P = PRELIMINARY.

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Chairman GIBBONS. I think you have answered about all of the questions that I can think of at this time. Both sides have made very learned and very important statements. You present us with some very conflicting evidence. We will take it into consideration and will try to do justice to the situation.

Thank you very much.

At this point in the evening, we will recess until May 5, at 9:30 a.m., in this room. Thank you very much.

[Whereupon, at 6 p.m., the subcommittee adjourned, to reconvene at 9:30 a.m., Thursday, May 5, 1983.]

CERTAIN TARIFF AND TRADE BILLS

THURSDAY, MAY 5, 1983

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON TRADE,
Washington, D.C.

The subcommittee met at 9:30 a.m., pursuant to notice, in room B-318, Rayburn House Office Building, Hon. Sam M. Gibbons (chairman of the subcommittee) presiding.

Chairman GIBBONS. Good morning, ladies and gentlemen.

This is a hearing of the Trade Subcommittee of the Ways and Means Committee on our miscellaneous tariff and trade bills. The purpose of this hearing as announced in the Trade Subcommittee press releases of April 11 and April 21, 1983, is to hear testimony on certain of the 50 miscellaneous tariff and trade bills under consideration by the subcommittee.

Today we will be hearing testimony on 16 of the bills. Further testimony on the remaining bills is scheduled for Tuesday, May 10, in this room. Testimony from the private sector on these bills will be taken in the order in which the bills appear on the agenda which has been made available.

As I stated previously, and I will repeat myself for the benefit of those who did not hear me last week; I do not expect to send any bills to the Senate unless there is a Senate cosponsor of an identical bill on the Senate side. The position I have taken in this matter will save us a great deal of trouble. Past experience has demonstrated that unless a bill has a Senate sponsor the Senate merely holds it up and all of the other bills which are part of the omnibus tariff bill. I am assuming, of course, that we will have an omnibus tariff bill.

Let us proceed with our first bill, H.R. 2299, by Mr. Hall of Texas. Our first witness, representing the Lone Star Steel Co., is Mr. James E. Knox accompanied by Mr. J. W. Chenoweth and Mr. Richard E. Rivers. We are hearing from this additional witness on H.R. 2299 as a special request of our fine colleague from Texas, Mr. Hance. Please come forward, Lone Star Steel, and tell us about the problems you have.

Go right ahead whichever one wants to lead off. Mr. Knox, do you want to lead off?

Mr. KNOX. I will be pleased to. Thank you, Mr. Chairman.

Chairman GIBBONS. You may proceed as you wish.

STATEMENT OF JAMES E. KNOX, VICE PRESIDENT AND GENERAL COUNSEL, LONE STAR STEEL CO., ACCOMPANIED BY J. W. CHENOWETH, ACCOUNT EXECUTIVE, AND RICHARD E. RIVERS, COUNSEL

Mr. KNOX. I am Jim Knox, vice president and general counsel of Lone Star Steel Co. On my right is Jim Chenoweth who is also——

Chairman GIBBONS. Mr. Knox, could you pull that microphone a little closer to you?

Mr. KNOX. I am not used to speaking into a mike.

Chairman GIBBONS. We are going to buy some good Japanese microphones so the people can hear. [Laughter.]

Mr. KNOX. I wish you had not said that.

Chairman GIBBONS. Well, we cannot seem to get any around here that you can hear.

Mr. KNOX. Sometimes if you talk into it too loud you can hear. [Laughter.]

Chairman GIBBONS. I am just teasing, of course.

Mr. KNOX. I started to say I was accompanied by Jim Chenoweth who is also with Lone Star Steel and Jim has been working with the Department of Commerce in the implementation of the pipe and tube arrangement with European Communities, and on my left I have Dick Rivers of Akin, Gump, Strauss, Hauer & Feld, our trade counsel.

We are here today to explain how our business, the production of casing and tubing for oil and gas wells, is being damaged by illegally subsidized and possibly dumped imports from the European Communities. I will refer to the European Communities as EC.

Our problem is that the recent arrangements with the EC prevent us from protecting ourselves under existing trade law. We and our industry have been left in the middle of the stream by our Government because of the uncertainty whether the arrangement for our product is enforceable.

We are asking you to either push us to the other shore by confirming the enforcement of the arrangement or pull us back by restoring our ability to protect ourselves under existing trade law. You cannot leave us drowning in midstream. H.R. 2299 resolves this dilemma by confirming the enforcement of the pipe and tube arrangement with the EC.

Lone Star Steel is a fully integrated producer of steel pipe and tube products. Our plant is located in the piney woods of east Texas and our administrative office is in Dallas. Our principal product line is casing and tubing for use in oil and gas wells.

Casing and tubing, together with drill pipe which we do not produce, is known as oil country tubular goods or OCTG. Lone Star Steel is one of the three largest U.S. producers of OCTG. We have a market share among U.S. producers of approximately 20 percent.

Since 1975 Lone Star Steel has invested approximately $500 million to update and improve our mill facilities. The United States represents more than two-thirds of the worldwide market for OCTG. Sales in this market by U.S. mills and importers rose from 2 million tons in 1979 to 5.5 million tons in 1981.

As you can see on this chart, during this period imports and in particular imports from the EC rose at an even faster rate. The EC

share of the market which is shown in this chart in green rose from 2 percent in 1979 to 15 percent in 1981. During this same period total imports rose from 25 percent to 43 percent of the market. This is through 1981.

Because of a drastic drop in drilling activity in 1982, domestic mills substantially reduced their production, but the foreign mills continued to ship OCTG to the United States at about the same level as the previous year. Consequently, imports greatly increased their share of the U.S. market as shown in the chart for 1982.

The EC increased its share to almost 20 percent and all imports rose to 61 percent of the market. To put this penetration in perspective, you should be aware that steel imports other than pipe and tube captured less than 18 percent of the U.S. market in 1982.

Let me repeat that. Our industry in 1982 lost 61 percent of the market to foreign sources while the rest of the steel industry lost less than 80 percent or less than 20 percent, excuse me. These actions by the importer contributed heavily to a huge inventory overhang of OCTG in the U.S. market. At the end of 1982 there was approximately 5 million tons in inventory.

The current drilling rates consume about a quarter million tons a month. Most of this will come from inventory with the balance coming from domestic shipments and imports in 1983.

Since Lone Star Steel began production of OCTG in 1953, it has weathered every boom-bust cycle of the oil and gas industry without ever shutting its plant. However, we were forced to shut down for the first time in August 1982 resulting in the layoff of over 4,000 employees.

Because of the huge inventory overhang, most of these employees still have not been able to return to their jobs. Other U.S. producers of OCTG are in the same position or worse.

In light of these circumstances, I am sure you can understand our concern with imports. We are not here today to ask for quotas. Our request is simply that this Congress remedy the unfair and damaging dilemma in which we have been placed by the recent steel arrangements between the EC and our Government.

Two agreements or arrangements were negotiated with the EC in October 1982: A general steel arrangement and a pipe and tube arrangement. The general steel arrangement limits the EC to its 1979–81 market share for each basic product category through 1985. This arrangement has a detailed enforcement procedure based on a law specifically passed for this purpose.

The general steel arrangement does not deal with pipe and tubes. This is because the highly unusual boom in the OCTG market had concealed the impact of imports, and, therefore, the injury required by our trade laws was not sufficiently evident at the time of the filing of the trade cases covering other steel products which led to the negotiations with the EC.

The pipe and tube category, however, could not be ignored. The same or similar subsidization was present. Any attempt to deal with the other steel products alone would simply aggravate the situation by diverting other steel products to the higher value pipe and tubes.

By the time of the negotiations it was apparent that the injury was far greater in pipe and tube than any other category. So pipe

and tube was dealt with, but it was dealt with in a separate arrangement.

The pipe and tube arrangement takes the same approach as the general steel arrangement. It restricts imports from the EC through 1985 at the level which existed in the 1979–81 base period. Unfortunately this arrangement does not set forth the same specific enforcement procedure for which there is a clear statutory authority.

While our Government has consistently maintained that the pipe and tube arrangement is nevertheless enforceable, the Europeans seem to be of a contrary opinion. For instance, Viscount Etienne who signed the agreement was quoted the following day in the American Metals Market publication as saying: "There is no control of pipe and tube exports to the United States."

In addition, European manufacturers of OCTG are telling our customers that they plan to sell in the U.S. market amounts of OCTG which will clearly exceed the EC's 1979–81 share of the market. We cannot tell for sure whether the arrangement is enforceable. Can you?

We may disagree on the correct answer. I hope we do not disagree that the answer is in doubt and that it is completely unacceptable to leave us in limbo.

So you might say what is the harm if our Government is wrong and pipe and tube arrangement is not enforceable. The harm is that in the meantime the EC is continuing to increase its share of our OCTG market with the aid of illegal subsidies and now possibly outright dumping.

EC producers are currently not in compliance with the arrangement. We show on this chart the seven subcategories of pipe and tube which have been developed by our Government and EC for use under the pipe and tube arrangement. The green bars represent the tonnage that the European Community would be permitted to ship under their historic market shares.

For each of the first 5 months that the agreement has been in effect, the red bars represent the tonnages that were actually shipped by the EC in each of the seven pipe and tube subcategories. As you can see, two things stand out.

First that the category in the middle, OCTG, is by far the largest category, and second for every month the European Community has far exceeded the amount it would have been shipping had it stayed within its historical market share.

While it may be true that if you average all this out that the Europeans are not greatly in excess of their historic share of pipe and tube, what is happening is that they are diverting their production to the high value end of the pipe and tube category which is OCTG. For the first 5 months following the arrangement the EC has taken 20 percent of the U.S. market for OCTG.

In March the EC share actually increased to 30 percent. This is over three times the arrangement level of 8.76 percent. If this trend continues, the EC may exceed the total allowable ceiling for OCTG for the rest of the year within the next 3 months.

Lone Star Steel alone among the major U.S. producers of OCTG was not consulted in the negotiation of the pipe and tube arrangement. Nevertheless, the pipe and tube arrangement provides that

the EC may terminate it if we commenced any action under our trade laws.

Recent EC quotes for OCTG have been almost 50 percent below our prices, and our prices have been reduced approximately 20 percent at the beginning of the year. If we elect to pursue these pricing policies as evidence of dumping or subsidies, we risk termination of the entire arrangement.

Here is a catch-22, if there ever was one. If we attempt to protect ourselves now, we will destroy an arrangement which our Government and the industry worked hard to develop. What kind of reception can we expect in the future from the Government which must interpret and apply our trade laws if we are forced to upset what it has worked so hard to put in place and what it believes is the best solution available.

We are faced with being branded an outlaw if we assert our rights. Our choice is to go against an agreement made by the U.S. Government or live with a deal that may not work.

Moreover, the loss of the pipe and tube arrangement would leave us vulnerable to diversions from the general steel arrangement which would continue in effect. The Government says it cannot even tell until the end of this year whether the EC is complying with the arrangement. If we believe our Government and wait until 1984 to find out if the pipe and tube arrangement can be enforced and they are wrong, U.S. pipe and tube producers will have been permanently damaged.

Whatever your position on import restrictions or the EC arrangements, you cannot leave us in this position. Damned if we act; damned if we do not. We believe H.R. 2299 is the more responsible approach to resolve this dilemma.

This is the case for providing that the pipe and tube arrangement be made enforceable. What can be the argument against confirming what everybody says is already so?

The Government, of course, states that it cannot support the bill because it has already assured industry and EC that the arrangement is enforceable. But surely they should not be against legitimizing the child of their efforts.

This bill is designed to do no more than make the pipe and tube arrangement enforceable. For instance, the subcategories within the pipe and tube classification incorporated in the bill were developed by our Government and the EC under the pipe and tube arrangement.

The arrangement recognizes the need for such subcategories by stating that consultations—which our Government says will lead to enforcement if not successful—should take place if "a distortion of the pattern of United States-European Community trade is occurring within the pipe and tube section." At the time the arrangement was executed the Secretary of Commerce wrote the chief executive officers of the steel companies, other than Lone Star Steel because we were not participating in the negotiations, that the only reason the subcategories were not put in the arrangement at the time it was negotiated was "the historical data on pipe and tube and the 1982 changes in the U.S. tariff schedule preclude precise identification of product categories at this time."

But the Secretary assured the chief executive officers that "we will consult with the EC upon entry into force of the arrangements to identify relevant product categories for the purposes of the pipe and tube arrangement." The Commerce Department did in fact develop the seven subcategories which are on our charts and the percentages which are listed in H.R. 2299. We were advised by the Commerce Department on April 11 that the seven subcategories and historical penetration levels have been accepted by the EC.

Without these subcategories, the pipe and tube arrangement would be unworkable since it would encourage diversion to the higher value end of the pipe and tube category which is OCTG. Diversion in fact is currently happening as you can see on the chart how they have taken tonnage. Instead of shipping it in the other lower value pipe and tube categories, they have bunched it up in the OCTG category.

In summary, H.R. 2299 does not change U.S. trade policy or the agreements under the pipe and tube arrangement. It simply insures that a major trade agreement negotiated between the United States and the EC will be clearly enforceable and that tens of thousands of employees in this country engaged in making OCTG and other pipe and tubes will not be the victims of a cruel hoax.

Before closing I would like to address briefly the so-called green tube matter which was raised last week before this subcommittee. "Green tubes" was the term used to refer to OCTG which has not been finished. It needs to be threaded, have a coupling purchased from a third party added, tested and inspected. In addition, if the pipe is to be sold as high strength product, it must be heat treated.

Green is probably the wrong color. A more appropriate color may be red. These unfinished tubes are unfortunately a red herring in the context of this bill.

First, the bill does not affect unfinished tubes. If there is any effect it would have to be from the arrangement. The bill simply confirms the enforceability of the arrangement. If the arrangement is inadequate with regard to unfinished tubes, that should be addressed directly with the Commerce Department, not by leaving enforceability of the arrangement up in the air.

Second, it is not the arrangement which affects the availability of unfinished tubes. It is the market. There is nothing in the arrangement which prevents EC mills from importing part or all of their share of OCTG in an unfinished state. In fact, to the extent a shift from unfinished tubes to finished tubes represents an injurious diversion, it would be remedied by the arragement.

Tube finishing by third parties became fashionable only in 1980–81. It, however, was not a quality problem which led to the increase in finishers. Quite the contrary.

Outside finishers raised quality questions because of their newness, the additional handling which could lead to mixup and the division of responsibility between the manufacturer and the finisher. No, it was not quality. It was instead a temporary bottleneck in finishing capacity at the mills in this country and elsewhere caused by the demand of the market in 1980–81.

This demand was fanned not only by the highest drilling level in history but the illusory expectation which has since been shot down probably forever that drilling would continue to increase at

the same astronomical rate. To meet this temporary surge in demand, many mills in this country and elsewhere converted capacity previously used to produce other tubular products to the production of OCTG.

In order to finish this production into OCTG they utilized the services of outside finishers while the mills were installing additional finishing capacity for themselves. Before this time, these finishers had primarily been involved in finishing nonprime or reject pipe for limited service applications.

When the mills had the capacity to finish their own production, there is no reason for them to stop their production lines before the manufacturing process has been completed. It would be like a car manufacturer selling unpainted cars to someone who will paint them and sell them in competition with the manufacturer to the same dealer.

Third, excepting unfinished tubes from the pipe and tube arrangement would jeopardize American pipe mills. Such action would reverse normal market forces and artificially flood this country with subsidized unfinished tubes. America would be reduced to a service industry to the EC pipe mills.

Billions of dollars have been invested in U.S. facilities to bring pipe to the state it can be finished into OCTG. Tens of thousands of people are directly involved in the manufacture of tubes to the unfinished state. Almost all the materials and supplies as well as the great bulk of people and equipment involved in producing OCTG are before the finishing stage.

We alone have suppliers with whom we would normally do three-quarters of a million dollars or more a year in business from Florida to Pennsylvania. What would happen to the mines in Oklahoma which furnish the coal we turn into coke to make steel? What would become of our 8 major suppliers in Ohio or the 10 in Pennsylvania, or our 28 major suppliers throughout Texas?

Steelworker president, McBride, put it better and with more authority when he told a recent meeting of the House Steel Caucus, and I quote:

> I remind you, too, that steelmaking jobs aren't the only ones to be lost. There are miners of metallurgical coal, iron ore miners, limestone quarry workers, the men and women who fabricate and install hot-end equipment, the armies of mill supporter workers and, of course, the community businesses and services which supply the needs of mill workers.

Finishers are not entitled to an exemption. Under the arrangement and, of course, H.R. 2299, they are entitled to their historic share of OCTG imports. The EC is not entitled to divert production from historic patterns.

To return to the issue before this subcommittee, what is at stake here is not just American OCTG, not just the American pipe and tube industry but the entire American steel industry. The industry must continue to modernize if it is to compete with subsidized industries in other countries.

Modernization requires profits. OCTG is one of the principal sources of profits to America's integrated steel mills. In 1981, the last profitable year, approximately 50 percent of the profits in these mills were generated by OCTG sales.

The uncertainty about whether the pipe and tube arrangement is enforceable puts the American OCTG industry in an impossible situation. It has been effectively deprived of the protection of our existing trade laws and left with a substitute which may not work because of uncertainty about its enforcement. Only you gentlemen can solve this dilemma.

This is an edited version of the prepared remarks which I previously submitted which I would appreciate also being included in the record, and I would like to answer your questions.

Chairman GIBBONS. Yes, sir. We will include the whole statement in the record.

[The prepared statement follows:]

STATEMENT OF JAMES E. KNOX, VICE PRESIDENT AND GENERAL COUNSEL, LONE STAR STEEL CO.

Mr. Chairman and Members of the Committee: I am Jim Knox, Vice President and General Counsel of Loan Star Steel Company. I am accompanied by Jim Chevowith of Lone Star Steel Company, who has been meeting with the Commerce Department in the implementation of the pipe and tube arrangement with the European Communities, and Richard Rivers of Akin, Gump, Strauss, Hauer & Feld, our trade counsel. These gentlemen will assist me in responding to your questions.

We appreciate this opportunity to present our views in support of H.R. 2299, the "Fair Trade in Steel Pipe and Tube Products Act of 1983." We are here because of the importance of this bill to our company and our almost 7,000 employees, two-thirds of whom are currently laid off.

We are here to explain how our business, the production of casing and tubing for oil and gas wells, is being damaged by illegally subsidized, and possibly dumped, imports from the European Communities (EC). Our problem is that the recent arrangements with the EC prevent us from protecting ourselves under existing trade laws. We, and our industry, have been left in the middle of the stream by our government because of the uncertainty whether the arrangement for our product is enforceable. We are asking you either to push us to the other shore by confirming the enforcement of the arrangement or pull us back by restoring our ability to protect ourselves under existing trade laws. You cannot leave us drowning in mid-stream. H.R. 2299 resolves this dilemma by confirming the enforcement of the pipe and tube arrangement with the EC.

Lone Star Steel is a fully integrated producer of steel pipe and tube products. Our plant is located in the piney woods of East Texas and our administrative office is in Dallas. Our principal product line is casing and tubing for use in oil and gas wells. Casing and tubing, together with drill pipe which we do not produce, is known as Oil Country Tubular Goods, or OCTG. We also produce a wide variety of cold drawn mechanical tubing products.

Our OCTG tubular goods are sought throughout the world. We have exceptional quality, proprietary processes and designs, the ability and willingness to meet the needs of the oil patch, and an ability and willingness to stand behind our products. We can and will change our production schedule on the shortest notice to produce an item needed by a customer. In 1973, when there was a temporary shortage of OCTG, we developed a unique program for independent oil and gas producers to set aside enough pipe to complete a well a day. In addition, we held to our prices while at the same time foreign mills were charging U.S. customers prices two to three times the going rate.

Lone Star Steel is one of the leading producers of OCTG in the world. It is one of the three largest U.S. producers of OCTG and has a market share among U.S. producers of approximately 20 percent.

Since 1975, Lone Star Steel has invested approximately $500 million to update and improve its mill facilities. These state of the art improvements include new electric arc furnaces, a continuous caster, extrusion presses, a 70 oven coke battery, a new iron ore sinter plant, a hot blast cupola, and pipe production and finishing equipment, such as threaders, induction heaters, quenching lines, and testing equipment.

The United States represents more than two-thirds of the worldwide market for OCTG. Sales in this market by U.S. mills and importers rose from 2 million tons in 1979 to 5½ million tons in 1981. During this period, imports, and in particular im-

ports from the EC, rose at an even faster rate. The EC's share of the U.S. market rose from 2.1 percent in 1979 to 14.9 percent in 1981. Total imports of OCTG rose from 24.6 percent to 42.8 percent. (See Chart I)

The rig count, which is a leading indicator of OCTG consumption, reached 4,500 rigs in December 1981. At that point a steep decline began. Today the rig count stands at 1,913. Because of this drastic drop in drilling activity in 1982, domestic mills substantially reduced their production, but the foreign mills continued to ship OCTG to the United States at about the same level as the previous year. Consequently, imports greatly increased their share of the U.S. market. The EC increased its share in 1982 to 19.7 percent, and all imports rose to 61.1 percent of the market! (See Chart I) To put this penetration in perspective, you should be aware that steel imports other than pipe and tube captured only 17.65 percent of the U.S. market in 1982.

These actions by the importers contributed heavily to a huge inventory overhang of OCTG in the U.S. market. At the end of 1982, there was approximately five million tons in inventory. The current drilling rates consume a total of only about a quarter million tons a month. It appears that most of that amount will come from inventory, with the balance coming from domestic shipments and imports in 1983.

Since Lone Star Steel began production of OCTG in 1953, it has weathered every boom-bust cycle of the oil and gas industry without every shutting down its plant. We were forced to shut down for the first time, however, in August 1982, resulting in the layoff of over 4,000 employees. Because of the huge inventory overhang, most of these employees still have not been able to return to their jobs. Other U.S. producers of OCTG are in the same position or worse.

In light of these circumstances, I am sure you can understand our concern with imports. We are not here today to ask for quotas or changes in our trade laws. Our request is simply that this Congress remedy the unfair and damaging dilemma in which we have been placed by the recent steel arrangements between the EC and our government.

Two agreements or arrangements were negotiated with the EC in October 1982: A general steel arrangement and a pipe and tube arrangement. The general steel arrangement limits the EC to its 1979–81 market share for each basic product category through 1985. This arrangement has a detailed enforcement procedure based on a law specifically passed for this purpose.

The general steel arrangement does not deal with pipe and tubes. This is because the highly unusual boom in the OCTG market had concealed the impact of imports, and the injury required by our trade laws was not sufficiently evident at the time of the filing of trade cases covering other steel products which led to the negotiations with the EC.

The pipe and tube category, however, could not be ignored. The same or similar subsidization was present. Any attempt to deal with the other steel products alone would simply aggravate the situation by diverting other steel production to higher value pipe and tubes. By that time it was apparent that the injury was greater in pipe and tube than any other category. So pipe and tubes were dealt with in a separate arrangement. Ironically, in dealing with pipe and tube in what may have been an ineffective manner, the parties are effectively precluded from now seeking a separate trade remedy as clear as those determined for general steel even though the pipe and tube category has been more seriously injured by the subsidization. More on this subject later.

The pipe and tube arrangement takes the same approach as the general steel arrangement. It restricts imports from the EC through 1985 at the level which existed in the 1979–81 base period. Unfortunately this arrangement does not set forth the same specific enforcement procedure. It simply states:

"If estimates based on the above information and projections of US apparent consumption of pipes and tubes show that the 1979–1981 average described in paragraph A might be exceeded or that a distortion of the pattern of US–EC trade is occurring within the pipe and tube sector, consultations between the EC and the US will take place in order to find an appropriate solution. If after 60 days no solution has been found each party will take within its legislative and regulatory framework, measures which it considers necessary. In doing so both parties will act in a complementary fashion in order to prevent diversion."

Our government says the pipe and tube arrangement is just as enforceable as the general steel arrangement. They may well be correct, but that conclusion is not clear. While our government has consistently maintained that the pipe and tube arrangement is enforceable, the Europeans seem to be of a contrary opinion. For instance, Viscount Etienne Davignon, who signed the arrangement, was quoted the following day in the American Metals Market publication of October 22: "There is

no control of pipe and tube exports to the United States." European manufacturers of OCTG are telling our customers that they plan to sell in the U.S. market amounts of OCTG which will clearly exceed the EC's 1979–81 share of this market.

The question is whether the requests by the President and the EC on October 21, 1982 to "enforce where necessary the measures taken within these Arrangements . . ." constitute requests to "require the presentation of a valid export license or other documents issued by [EC] as a condition for entry into the United States of steel mill products specified in the request." The Heinz Amendment (Section 153 of Public Law 97-276) requires that such requests be made prior to January 1, 1983.

We cannot tell for sure. Can you? The pipe and tube arrangement provides that "each party will take within its legislative and regulatory framework, measures which it considers necessary." The answer to the enforceability of the arrangement will turn on whether this promise to take necessary measures is the same as a promise to require presentation of export documents. We may disagree on the correct answer. I hope we do not disagree that the answer is in doubt and that it is completely unacceptable to leave us in limbo.

So what is the harm if our government is wrong and the pipe and tube arrangement is not enforceable? The harm is that in the meantime the EC is continuing to increase its shares of our OCTG market with the aid of illegal subsidization, and now possibly outright dumping. EC producers are not in compliance with the arrangement and at current levels cannot get into compliance by the end of 1983. EC imports would have to drop substantially for the balance of this year. (See Chart II attached)

For the first five months following the arrangment, the EC has taken 20 percent of the U.S. market for OCTG. In March the EC share actually increased to 29.8 percent. This is over three times the arrangement level of 8.7 percent, and if this trend continues the EC may exceed the total allowable ceilings for OCTG for the rest of the year within the next three months.

We alone among the major U.S. producers of OCTG were not consulted in the negotiation of the pipe and tube arrangement. (This was because we were the only major producer of OCTG which does not also produce products which were the subject of the trade cases that led to the arrangements.) Nevertheless, the pipe and tube arrangement provides that the EC may terminate it if we commence any action under our trade laws.

Recent EC quotes for OCTG have been almost 50 percent below our prices which had already been reduced approximately 20 percent at the beginning of this year. If we elect to pursue these pricing policies as evidence of dumping or subsidies, we risk termination of the entire arrangement. Here is a "Catch 22" if there ever was one. If we attempt to protect ourselves now, we will destroy an arrangement which our government and the industry worked hard to develop. What kind of reception can we expect from the government, which must interpret and apply our trade laws, if we upset what it has worked so hard to put in place and what it believes is the best solution available. We are faced with being branded as the outlaw if we assert our rights. Our choice is to go against an agreement made by the U.S. Government or live with a deal that may not work.

Moreover, the loss of the pipe and tube arrangement would leave us vulnerable to diversion from the general steel arrangement, which would continue in effect. The government says it cannot even tell until the end of this year whether the EC is complying with the arrangement. If we believe our government and wait until 1984 to find out if the pipe and tube arrangement can be enforced, U.S. pipe and tube producers will have been permanently damaged.

Whatever your position on import restrictions or the EC arrangements, you cannot leave us in this position. Damned if we act; damned if we do not. Either the U.S. Government must enforce the arrangement or relieve U.S. pipe and tube producers of the restrictions on filing trade cases. We believe H.R. 2299 is the more responsible approach to resolve this dilemma.

This is the case for providing that the pipe and tube arrangement be made enforceable. What can be the argument against confirming what everybody says is already so? The government of course states that it cannot support the bill because it has already assured industry and the EC that the arrangement is already enforceable. But surely they should not be against legitimizing the child of their efforts.

This bill is designed to do no more than make the pipe and tube arrangement enforceable. The subcategories within the pipe and tube classification incorporated in the bill were developed by our government and the EC under the pipe and tube arrangement. The arrangement recognized the need for such subcategories by stating the consultations (which our government says will lead to enforcement if not successful) should take place if "a distortion of the pattern of US–EC trade is occur-

ing within the pipe and tube section . . ." At the time the arrangement was executed, the Secretary of Commerce wrote the CEO's of the steel companies (other than Lone Star Steel) that the only reason these subcategories were not put in the arrangement at the time was "[t]he historical data on pipe and tube and the 1982 changes in the U.S. tariff schedule precluded precise identification of product categories at this time," and the Secretary assured the CEO's that "[w]e will consult with the EC upon entry into force of the Arrangements to identify relevant product categories for the purposes of the pipe and tube Arrangement." The Commerce Department developed the seven subcategories and percentages which are listed in H.R. 2299. We were advised by the Commerce Department on April 11 that the seven subcategories and historical penetration levels have been accepted by the EC.

Without the subcategories, the pipe and tube arrangement would be unworkable, since it would encourage diversion to the higher value end of the pipe and tube category, which is OCTG, without any way of remedying such diversion. Diversion in fact is currently happening. (see Chart II)

As a final note, in response to a comment at the hearing last week, the quarterly adjustment in forecasts called for in the bill is identical to the monitoring and forecasting procedures the Commerce Department and the EC have established under the arrangements. These forecasts are to be made by Data Resources, Inc. (DRI), which was selected by the EC and the Commerce Department. H.R. 2299 merely outlines this procedure precisely. It does not establish quarterly compliance requirements. Monitoring is a continuous requirement and consultations can be sought at any point at which it appears imports might exceed the ceiling or if distortion is occurring within the pipe and tube sector.

In summary, H.R. 2299 does not change U.S. trade law or the agreements under the pipe and tube arrangement. It simply ensures that a major trade agreement negotiated between the United States and the EC will be clearly enforceable and that the tens of thousands of employees in this country engaged in making OCTG and other pipe and tubes will not be the losers in the bargain.

Now, in closing, I would like to address briefly the so-called green tube matter which was raised last week before this Subcommittee.

"Green tubes" is the term used to refer to OCTG which has not been finished. It needs to be heat treated (if it is to be sold as a high strength product), threaded, have a coupling purchased from a third party added, tested and inspected.

First, the bill does not affect unfinished tubes. If there is any effect it would have to be from the arrangement. The bill simply confirms the enforceability of the arrangement. If the arrangement is inadequate with regard to unfinished tubes, that should be addressed directly with the Commerce Department, not by leaving enforceability of the arrangement up in the air.

Second, it is not the arrangement which affects the availability of unfinished tubes; it is the market. There is nothing in the arrangement which prevents EC mills from importing part or all of their share of OCTG in an unfinished state. In fact, to the extent a shift from unfinished tubes to finished tubes represents an injurious diversion, it would be remedied by the arrangement.

Tube finishing by third parties became fashionable only in 1980–81. It, however, was not a quality problem which led to the sudden appearance of the finishers. (Quite the contrary. Outside finishers raise quality questions because of their newness, additional handling which could lead to mixups and the division of responsibility between the manufacturer and the finisher.) It was instead a temporary bottleneck in finishing capacity at the mills in this country and elsewhere caused by the perceived demand of the market in 1980–81. This demand was fanned, not only by the highest drilling level in history, but the illusory expectation, which has since been shot down, probably forever, that drilling would continue to increase at the same astronomical rate.

To meet this temporary surge in demand, many mills in this country and elsewhere converted capacity previously used to produce line pipe and other tubular products to the production of OCTG. In order to finish this production into OCTG, they utilized the services of outside finishers. Many of these mills also then increased their finishing capacity, so that there is more than adequate capacity to meet even the demand levels of 1980–81. When the mills have the capacity to finish their own production, there is no reason for them to stop their production lines before the manufacturing process has been completed. It would be like a car manufacturer selling unpainted cars to someone who will paint them and sell them in competition with the manufacturer to the same dealers.

Third, excepting unfinished tubes from the pipe and tube arrangement would jeopardize American pipe mills. Such action would reverse normal market forces

and artificially flood this country with subsidized unfinished tubes. America would be reduced to a service industry to EC pipe mills.

Billions of dollars have been invested in U.S. facilities to bring pipe to the state it can be finished into OCTG. Tens of thousands of people are directly involved in the manufacture of tubes to the unfinished state. Almost all the materials and supplies, as well as the great bulk of people and equipment, involved in producing OCTG are before the finishing stage. We alone have suppliers with whom we would normally do three-quarters of a million dollars or more a year in business from Florida to Pennsylvania. What would happen to the mines in Oklahoma which furnish the coal we turn into coke to make steel? What would become of our eight major suppliers in Ohio or the ten in Pennsylvania, or our 28 major suppliers throughout Texas?

Steelworker President McBride put it better and with more authority when he told a recent meeting of the House Steel Caucus:

"I remind you, too, that steelmaking jobs aren't the only ones to be lost. There are miners of metallurgical coal, iron ore miners, limestone quarry workers, the men and women who fabricate and install 'hot-end' equipment, the armies of mill support workers and, of course, the community businesses and services which supply the needs of mill workers."

And keep in mine, President McBride was talking only about the loss of slab production to the EC which represents less than one-half of the loss to the United States of producing unfinished tubes in the EC!

Finishers are clearly not entitled to an exemption. Under the arrangement, and of course H.R. 2299, they are entitled to their historic share of OCTG imports. The EC is not entitled to divert production from historical patterns.

The basic and most urgent solution is to enforce the arrangement to permit the market here to work down the massive inventory overhang in OCTG. None of us, producers or finishers, will get back into business until that is accomplished. We would be glad to discuss this further with the Committee to determine if a more specific solution can be found, but we cannot change the basic effects of supply and demand in the OCTG market.

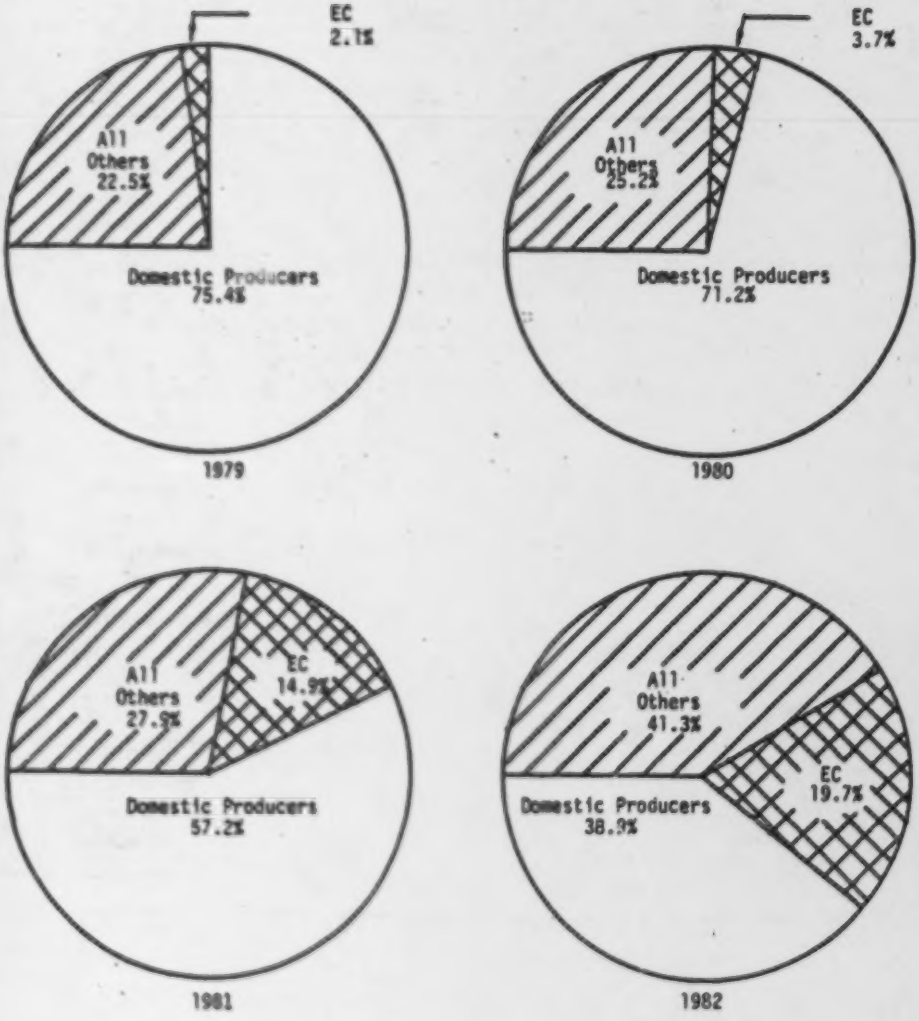
What is at stake here is not just the American OCTG industry, not just the American pipe and tube industry, but the entire American steel industry. The industry must continue to modernize if it is to compete with subsidized industries in other countries. Modernization requires profits. OCTG is one of the principal source of profits to America's integrated steel mills. In 1981, the last profitable year, approximately 50 percent of the profits of these mills were generated by OCTG sales.

The uncertainty about whether the pipe and tube arrangement is enforceable puts the American OCTG industry in an impossible situation. It has been effectively deprived of the protection of our existing trade laws and left with a substitute which may not work because of uncertainty about its enforcement. Only this Congress can solve this dilemma.

[The following was subsequently received:]

Chart I

OIL COUNTRY TUBULAR GOODS
Participation in U.S.A.
Apparent Consumption



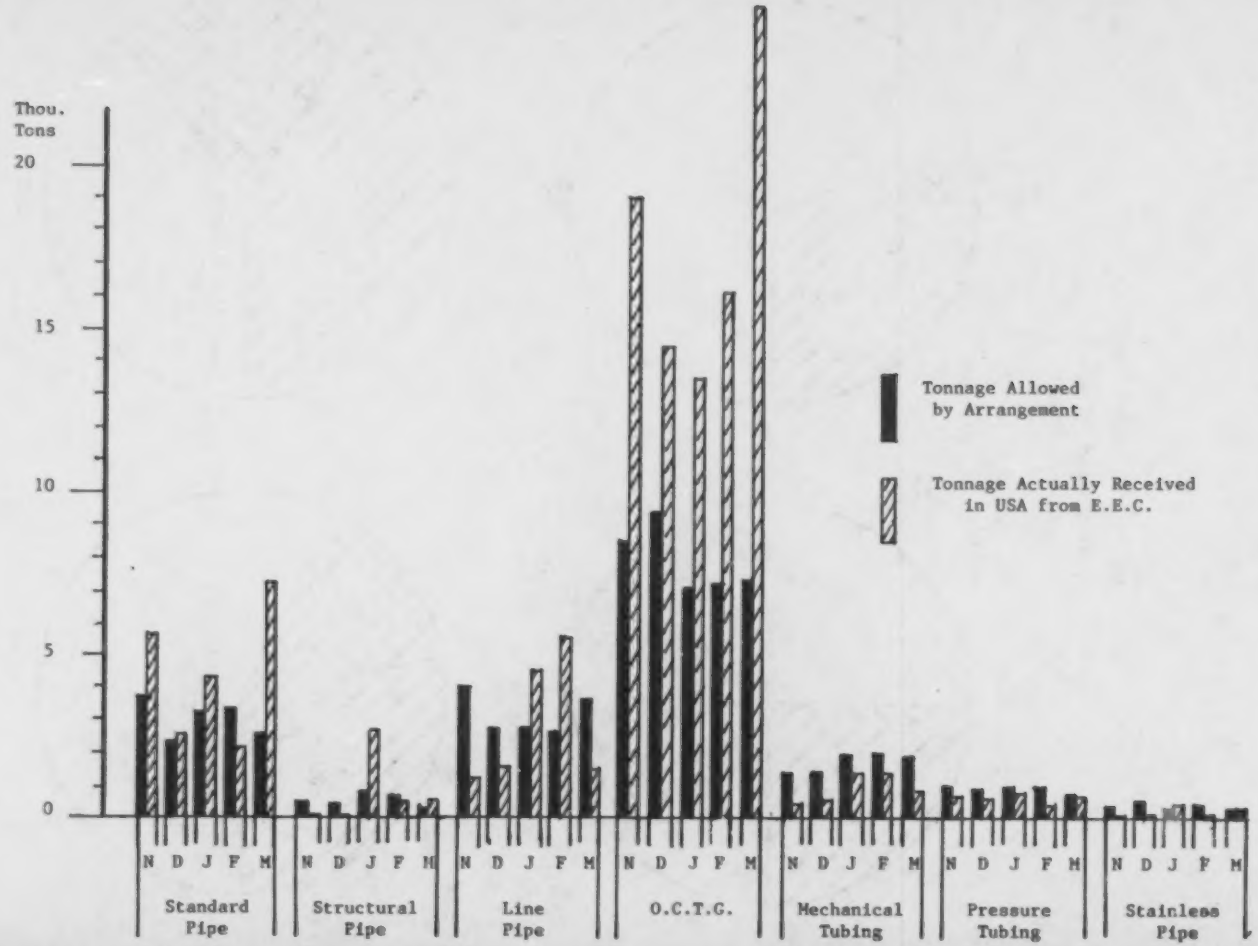

Thou. Tons
20
15
10
5
0
Tonnage Allowed by Arrangement
Tonnage Actually Received in USA from E.E.C.
N D J F M
Standard Pipe
Structural Pipe
Line Pipe
O.C.T.G.
Mechanical Tubing
Pressure Tubing
Stainless Pipe

Chart II

LONE STAR STEEL COMPANY
2200 WEST MOCKINGBIRD LANE • P. O. BOX 35888
DALLAS, TEXAS 75235

JAMES E. KNOX
VICE PRESIDENT AND
GENERAL COUNSEL

RECEIVED
MAY 27 1983
Ways and Means
Subcommittee on Trade

May 26, 1983

Honorable Sam M. Gibbons
United States House of Representatives
Washington, D. C. 20515

Re: H.R. 2299

Dear Chairman Gibbons:

Enclosed are copies of correspondence with Congressman Jones on the green tube situation and the materials referred to in that correspondence which we recently received from Tubular Corporation of America. I would appreciate these enclosures being added to the record of the hearing on the subject bill.

As you will see from the enclosures, Tubular Corporation of America is seeking a seamless product which we do not make. You can be sure, however, that we are going to pursue whether they will consider our welded product which we believe to be equal or superior to a seamless pipe.

I want to express my appreciation to you for the understanding and courteous manner in which you received my testimony on this subject on May 5.

Sincerely,

Jim Knox

James E. Knox

JEK:brs
Enc.

LONE STAR STEEL

2200 W. Mockingbird Lane • P. O. Box 35888
Dallas, Texas 75235

Tel: (214) 352-3981 • Telex: 73-0130
TWX: 910 - 861 - 4024

May 26, 1983

Honorable James R. Jones
United States House of Representatives
Washington, D. C. 20515

Re: H.R. 2299

Dear Congressman Jones:

Thank you for sharing with us a copy of the June 15, 1982 quotation request from Mr. Weigel of Tubular Corporation of America to our Joe Shepherd. As I testified before the Subcommittee on Trade on May 5, 1983, we did not receive this request and were unaware of its existence until receiving a copy from you.

Mr. Shepherd and his secretary are quite positive that no such request was ever received. Had he received such a request, Mr. Shepherd says he would have reviewed it with his superior, B. C. Robertson, Executive Vice President-Marketing. Mr. Robertson says he did not hear about this subject until Mr. Weigel called early in 1983 to inquire in a very general way if we were interested in selling unfinished tubes. At that time Mr. Robertson discussed this subject with our President, James E. Chenault, Jr., who agreed we should explore this opportunity as soon as we were in a position to do so.

Last Friday I duscussed this subject with Robert Alpert of Tubular Corporation of America. He agreed to check his files to determine if the June 1982 request was returned by the postal service without his knowledge and he has since confirmed to me that they have no indication of the letter being returned. He kindly suggested I correspond with you and Chairman Gibbons to explain that Lone Star Steel did not receive the request, but that our companies are now exploring the sale of unfinished tubes pursuant to a call Lone Star Steel made to his company on May 6, 1983.

This Monday, May 23, we received from Mr. Weigel a response to our call of May 6, 1983. This response attaches both the June 15, 1982 request you forwarded and a set of specifications. Specifications were referred to in the copy of the June 15, 1982 request we received from you, but were not attached to that copy. The specifications we received Monday were revised since June 15, 1982, but we have not been able to obtain a copy of the original specifications from TCA.

The specifications we received require that the product be seamless. We stopped producing seamless pipe of the sizes and grades requested by TCA in February 1981 because of the high costs of our extrusion process. Since that time the only seamless pipe we have produced is a high performance product which is both extruded and drawn over a mandrel. This product is made by a patented process on special facilities and could not be finished on TCA's facilities. It thus appears that we do not make any product which TCA is now seeking or has ever sought. We do intend, however, to discuss with TCA our welded pipe which we believe is equal or superior to the seamless products it is seeking.

The missing request explains the confusion. The dual facts that TCA was seeking seamless pipe which we do not manufacture and the general downturn in the market apparently caused TCA to give little attention to our failure to respond to the missing request. When I visited TCA in November 1982 on another subject, TCA had not completed the installation of its facilities. At this time neither Mr. Alpert nor Mr. Weigel mentioned the missing request. When Mr. Wiegel called in 1983, he must have assumed his request of June 1982 had been received and he spoke only in the most general terms. We, however, knew nothing of the missing request and construed his call as only a preliminary feeler.

I hope this confusion does not detract from the need to make the pipe and tube arrangement enforceable. Without such enforceability, we believe both U. S. manufacturers of oil country tubular goods like Lone Star Steel, and finishers like TCA, have been put in an untenable position by the steel arrangements negotiated by the Commerce Department with the European Communities.

If we attempt to protect ourselves from subsidies and dumping, we will give the European Communities the opportunity to withdraw from the pipe and tube arrangement. With the general steel arrangement still in place, this will cause the diversion of steel to the higher value pipe and tube category while our legal machinery grinds on. On the other hand, if we wait to see if the pipe and tube arrangement is enforceable, we will have suffered irreparable damage if it should ultimately be determined that it is not enforceable.

Sincerely,

Jim Knox

James E. Knox
Vice President and
General Counsel

cc: Honorable Sam M. Gibbons
United States House of Representatives

Mr. Robert Alpert
Tubular Corporation of America

TCA®
TUBULAR CORPORATION OF AMERICA, INC.
ONE PORT PLACE, MUSKOGEE, OK. 74401 (918) 687-0891 TELEX 798320

May 13, 1983

Mr. Jim Dudley
Lone Star Steel
P. O. Box 35888
Dallas, Texas 75235

Dear Jim:

Pursuant to our phone conversation of Monday, May 9, attached is a copy of the earlier inquiry together with the most recent edition of our specification. I suggest you use the sizes, grades and quantities listed in the June, 1982, inquiry as the basis for your proposal.

Best regards,

D. L. Weigel
Chief Operations Officer
Tubular Corporation of America, Inc.

DLW:gm
Attachments

TCA®
TUBULAR CORPORATION OF AMERICA, INC.
ONE PORT PLACE, MUSKOGEE, OK. 74401 (918) 687-0891 TELEX 796320

June 15, 1982

Mr. Joe Shepherd
Vice-President of Sales
Lone Star Steel Company
P. O. Box 35888
Dallas, Texas 75235

Dear Mr. Shepherd:

Attached is my request for a quotation on part of TCA's third quarter requirement for heat treatable "mother tubes". Also enclosed is our Specification S-1 which pertains to the items in this inquiry.

I will appreciate price and delivery proposals together with comments on our specification. We will be happy to discuss the specification with you to resolve areas of concern.

When we are fully operational, I expect that our requirements for heat treatable tubulars will be at an annual rate of 175,000 tons, in diameters from 2 3/8" through 9 5/8". Tonnage will eventually be distributed approximately 20 percent in tubing sizes and 80 percent in casing sizes.

In addressing the attached inquiry, I ask that you consider the prospect of, and comment on, evoling a supply contract between Lone Star Steel and TCA. We are interested in considering a contract wherein TCA would receive a supply of a defined amount of heat treatable tubulars over a five year period, subject to an agreed upon pricing formula. The issue of supply continuity is obviously of considerable importance to TCA, and I will await your response.

Very truly yours,

D L Weigel

David L. Weigel
Chief Operations Officer

DLW:gm
Attachment

ATTACHMENT I

Please quote prices on round heat lot quantities of the following sizes for third quarter, 1982, delivery.

ITEM	OD	WALL	PRODUCT	SPEC.	CHEMISTRY	FOOTAGE REQUIRED
1	2.375	.190	Tubing	S-1	Type 2	90,000'
2	2.875	.217	Tubing	S-1	Type 2	65,000'
3	2.875	.308	Tubing	S-1	Type 2	25,000'
4	3.500	.254	Tubing	S-1	Type 2	25,000'
5	4.500	.250	Casing	S-1	Type 1	20,000'
6	5.500	.304	Casing	S-1	Type 1	20,000'
7	5.500	.361	Casing	S-1	Type 2	15,000'
8	5.500	.415	Casing	S-1	Type 2	10,000'
9	7.000	.317	Casing	S-1	Type 1	10,000'
10	7.000	.362	Casing	S-1	Type 2	10,000'
11	7.000	.408	Casing	S-1	Type 2	10,000'
12	7.625	.328	Casing	S-1	Type 1	10,000'
13	7.625	.375	Casing	S-1	Type 2	10,000'

SPECIFICATION FOR SEAMLESS 2-3/8 - 9-5/8 INCH

SEMI-FINISHED TUBING AND CASING

TUBULAR CORPORATION OF AMERICA,INC..

MUSKOGEE, OKLAHOMA

SPECIFICATION S-1, REV. 2 MAY 2, 1983

S-1, REVISION 2

1. Scope

This Specification defines the necessary requirements for the manufacture of seamless tubular goods to be supplied to Tubular Corporation of America, Inc. (T.C.A.), Muskogee, Oklahoma. Tubulars purchased to this specification may be upset and/or heat treated by T.C.A. All tubulars purchased to this specification will be finished into A.P.I. oil country type goods by T.C.A. for application to one or more of the following standards:

1.1 A.P.I. Specification 5A for Casing, Tubing and Drill Pipe.

1.2 A..P.I. Specification 5AC for Restricted Yield Strength Casing and Tubing.

1.3 A.P.I. Specification 5AX for High Strength Casing, Tubing, and Drill Pipe.

2. Process

Steel shall be made by one of the following conventional methods currently utilized: Basic Oxygen Furnace (B.O.F.), Electric Arc Furnace (E.A.F.), Open Hearth (O.H.).

3. Manufacture

Tubulars shall be made by the seamless process and shall be supplied in the as-rolled or hot finished condition.

NOTE:

Application of seamless tubulars manufactured by the extrusion process shall require prior approval by T.C.A.

4. Surface Finish

Tubulars shall have a surface finish of as-rolled steel. Heavy scale and residual lubricants on either the outside diameter (O.D.) or inside diameter (I.D.) surfaces are not acceptable.

5. Chemical Requirements

5.1 Chemical requirements shall be as outlined on Attachment I.

5.2 All steel shall be made with a fine grain practice with uniformity in as-supplied grain size. McQuaid EHN grain size to be ASTM 7 or greater.

5.3 Any element not specified in Attachment I, including inclusion controlling elements, shall not be alloyed without the consent of T.C.A.

5.4 Residual elements (tramp) shall be kept to low levels as follows:

Cu	.10	Max %
Ni	.10	Max %
Cr	.10	Max.%
Sn	.010	Max. %

5.5 The chemical requirements defined on Attachment I pertain to as-supplied product analysis.. Product analysis means the chemistry content at the time of delivery.

5.6 Additionally, an analysis of each heat of steel shall be made to determine the percentages of the elements specified; the chemical composition thus determined shall also conform to the requirements specified.

6. Physical Properties

Grades S-1 Type 3 and Type 4 tubulars shall have as-supplied physical properties which conform to the tensile requirements specified in Table 4.1 of A.P.I. Specification 5A, Section 4 for J-55 and K-55 respectively.

No physical properties are specified or required on any of the other grades unless specifically required in the purchase order.

7. Dimensions, Weights and Lengths

7.1 Outside diameter tolerances shall conform to the following:

Tubular Size*	Minimum Diameter	Maximum Diameter
2 3/8	2.375	2.406
2 7/8	2.875	2.906
3 1/2	3.500	3.531
4 1/2	4.500	4.534
5	5.000	5.038
5 1/2	5.500	5.541

24-184 O—83——14

7.1 Continued

Tubular Size*	Minimum Diameter	Maximum Diameter
6 5/8	6.625	6.675
7	7.000	7.053
7 5/8	7.625	7.682
8 5/8	8.625	8.690
9 5/8	9.625	9.687

*Dimension in inches

7.2 Wall thickness shall be plus or minus 7 1/2% of nominal wall, and plain end weight tolerances for casing and tubing shall be as defined in Table 6.7 of A.P.I.

7.3 Lengths shall be as follows:

Plain End Tubing	30'0" - 32'4"	Aim 32'4"
Plain End Casing	40'0" - 45'0"	Aim 45'0"

8. Drift Test

All tubulars shall be capable of passing a full length drift test in accordance with Table 6.7 of A.P.I. Specification 5 AC, Section 6.

9. Straightness

All tubulars shall be supplied reasonably straight, with no excessive hooks near the ends. Straightness tolerance is .010 inches deflection from true straight per foot of length.

10. NDT Inspection

10.1 In addition to visual inspection, casing and tubing surfaces shall be inspected full length by the supplier using ultrasonic or electromagnetic methods. Results of the NDT Inspection shall conform to A.P.I. Specifications 5A, 5AC, or 5AX, Section 10, as specified on the purchase order.

10.2 Each length of tubing or casing shall be inspected by the supplier and all defects shall be removed as outlined in 10.1 through 10.6 and 10.8 through 10.11 of A.P.I. Specification 5A, 5AC, or 5AX, Section 10, as specified on the purchase order.

10. NDT Inspection

10.3 When 5AX inspection is specified on the purchase order, the supplier shall remove all imperfections exceeding 5% of the specified wall thickness in accordance with A.P.I. 5AX, paragraphs 10.10 and 10.11.

10.4 Tubular goods passing ND inspection in accordance with A.P.I. 5A, 5AC, or 5AX, but exhibiting excessive surface imperfections in the form of laps, pits, overfills, roll marks, etc., shall be rejected for poor workmanshp.

10.5 When an individual heat exhibits a reject rate exceeding 5% during incoming ND survey inspection by TCA, that heat shall be rejected and shall not be processed further.

NOTE:

Incoming tubulars may be survey ND tested in accordance with the applicable A.P.I. Specification (5A, 5AC, 5AX), or similar type specifications. Approximately 1 in 5 tubulars will be survey tested via ultrasonic, electromagnetic or eddy current techniques. NDT survey results will determine further processing and product suitability. Additionally, following processing at T.C.A., all tubulars will be ND tested in accordance with the above test methods and applicable standards.

All tubulars NDT inspected, whether at survey or as finished product, which contain defects precluding application to the specified product, will be rejected.

T.C.A. will have had survey and finish product NDT inspection performed, as above indicated. This, however, is not to the exclusion of, nor does it eliminate the necessity for, similar NDT inspection of the as-supplied tubulars by the manufacturer. The supplier to T.C.A. is responsible for providing a sound tubular.

11. End Finish

Each length of pipe shall be plain and square cut without burrs.

12. Markings

Each tubular shall be paint stencilled with the following information on the outside surface:

12. Markings

12.1 Manufacturer's Identification

12.2 Outside Diameter Size

12.3 Nominal Wall Thickness

12.4 Weight Per Foot

12.5 Length (Nominal)

12.6 T.C.A. Purchase Order Number

12.7 Process of Manufacture (B.O.F., E.A.F., O.H.)

12.8 Heat Number: Heat number is to be stencilled on the O.D. surface approximately 3 feet from both ends of each length.

13. Coating

Full length mill coating shall not be applied unless otherwise specified in the purchase order. However, the mill identity stencil area shall be coated.

14. Packing and Shipment

14.1 through 14.5 shall apply to tubulars up through 7" O.D.

14.1 Maximum weight per bundle shall be 5 tons. Aim 4 1/2 tons optimized bundle weight. Each heat, or portions thereof, shall be bundled separately.

14.2 The manufacturer shall aim to have an equal number of joints in each bundle.

14.3 Each bundle shall be tagged with a metal or weatherproof tag, which lists manufacturer's identification, heat number, O.D., nominal wall thickness, weight per foot, total pieces in bundle, and unique bundle identification.

14.4 The manufacturer shall, to the maximum extent possible, make up bundles with uniform length.

14.5 The manufacturer shall exercise care to prevent damage during packaging and loading for shipment to T.C.A.

14. Packing and Shipment

14.6 During loading, each layer of casing, or each layer of bundled tubing or casing, shall be separated by 4"x4" wood stripping.

14.7 When the size of the order allows, single heat lots shall be shipped intact and in their entirety.

15. Reports

15.1 Packing lists and test reports shall accompany each shipment. Separate copies of each packing list and test report shall be mailed to T.C.A. to the attention of the Quality Assurance Department.

15.2 The packing list shall include unique bundle information as well as the list of pieces and actual lengths in each bundle.

15.3 Test reports shall include chemistry (heat and product) reports, mechanical properties and all pertinent order, dimension, and heat number information.

16. Incoming Inspection

T.C.A. may perform an incoming quality audit of all incoming tubulars. The incoming audit will survey all attributes including straightness, chemistry, dimensions, surface, etc. Any heats exhibiting an overall rejection rate exceeding 5%, upon incoming quality audit, shall be rejected and shall not be processed further.

17. Warranty

Seller warrants that the pipe supplied by it to Buyer is free from defects (including latent defects) in material and workmanship and complies with the specifications herein. Seller will not be responsible for the physical properties of the pipe after heat treatment by Buyer so long as the chemical composition of the pipe in fact satisfies the requirements of part 5 of this specification. If the pipe is at any time found to have defects in material or workmanship which do not comply with this specification, Seller shall replace the pipe or reimburse Buyer for the cost of the pipe at Buyer's election.

17. Warranty (Continued)

Seller shall not be responsible for reimbursing Buyer for its incidental costs (for labor, cost of processing, cost of equipment rental or other like costs), nor shall Seller be responsible for any of Buyer's consequential damages (such as loss of use or loss of profit) should there be defects in materials or workmanship. Seller's liability to Buyer shall be limited to the above in connection with defects in materials or workmanship. All claims under this warranty by Buyer shall be made within one year after the date on this bill of lading. Provided, however, Buyer shall notify Seller of any nonconforming goods determined by inspection or testing within 60 days after such inspection or testing. This warranty contained in the specification shall not be waived by Buyer's acceptance of the goods or by payment for them. Moreover, nothing herein shall limit the right of Buyer under law for indemnification resulting from claims of third parties.

ATTACHMENT I

Chemistry (%)

Grade	C	Mn	P (Max.)	S (Max.)	Si	Cr	Mo	B
S-1 Type 1	.23/ .29	1.10/ 1.35	.020	.020	.15/ .35	*	*	*
S-1 Type 2	.23/ .29	1.10/ 1.35	.020	.020	.15/ .35	*	.05/ .09	.0005/ .0025
S-1 Type 3	.37/ .42	1.10/ 1.35	.025	.025	.15/ .35	*	*	*
S-1 Type 4	.42/ .48	1.10/ 1.35	.025	.025	.15/ .35	*	*	*
S-1 Type 5	.23/ .29	1.10/ 1.35	.020	.020	.15/ .35	*	.15/ .25	*
S-1 Type 6	.40/ .46	1.40/ 1.65	.020	.020	.15/ .35	*	.20/ .30	*
S-1 Type 7	.22/ .27	.40/ .70	.010	.010	.15/ .35	.75/ 1.05	.35/ .45	*
S-1 Type 8	.23/ .29	1.10 1.35	.020	.020	.15/ .35	*	*	.0005/ .0025

*Not specified, not to be alloyed.

Chairman GIBBONS. Mr. Hance.

Mr. HANCE. Mr. Knox, I appreciate your fine testimony. You addressed some of the issues that came up the other day after we had heard testimony from the Commerce Department and other individuals, including those that were concerned about green tube. At any time have you all refused to sell green tube to domestic processors, and if so under what circumstances?

Mr. KNOX. Well, first of all we are not in the business of selling green tubes, but we have never refused to sell green tubes. We would like to sell anything that we could get paid for right now.

We received a few months ago a very informal inquiry from a new finisher which is just getting started in Oklahoma. The inquiry was very indefinite and had reference to a very small quantity of product.

We have every intention of pursuing that inquiry to see if there is anything that can be worked out here. We are very much interested in whatever business we can find.

Mr. HANCE. At the time that you all were at maximum production, would you have had the opportunity to meet your contracts and then also sell green tube?

Mr. KNOX. Well, when we were at maximum production, in fact, we were over our maximum production, we produced oil country tubular goods in excess of the rated capacity of our facility back in 1980 and 1981 when the boom was on. We contracted with outside finishing companies to finish under our direction our pipe.

We took the responsibility for it and the pipe was sold under our name, but we have not sold unfinished tubes as such to be finished. We sell our rejects and not quite perfect tubes.

We do not go to the expense of finishing them. They are sold. They are put to a great number of uses, and it is very possible that some of those were sold to finishers who finished them into limited service oil country tubular goods.

Mr. HANCE. When you were at your peak capacity, could you meet your contracts at that time with the people you supplied tubular goods? Could you have met those contracts and still have made green tube available to others?

Mr. KNOX. No, we could not have.

Mr. HANCE. But now you can?

Mr. KNOX. Well, we are not selling much of anything now. Our plant is essentially down.

Mr. HANCE. Mr. Chairman, last week we heard from witnesses of the Commerce Department, and I think that this witness has opened up some other questions as far as I am concerned. I would like the committee's consent to have the opportunity to direct some written questions to the Commerce Department for their response.

Chairman GIBBONS. We are probably going to have to get them back. This bill has turned out to be much more controversial than the scope of the small noncontroversial bills that we are dealing with here.

It is my inclination, now, to segregate it out from the others, or we are going to be bogged down all year on this one issue. This is a very important and very complex issue, and I think we are going to have to come back to it, Mr. Hance, and get to the root of the problem.

As you know, I have never been a supporter of the steel cartels the U.S. steel people and the Europeans want to establish. I would not be caught dead trying to support any of those things, but we do have a dilemma here.

Lone Star Steel is in a bind, and is caught between what I think was a very improvident arrangement between our Government, our integrated steel industry, and the Europeans. We are going to have to examine this issue in greater depth. I understand that now.

Certainly, you are entitled to some kind of relief. I want to see if we can do justice with this issue.

Mr. HANCE. Would it be sometime then in the near future?

Chairman GIBBONS. Oh, yes. This goes to the very heart of the crazy steel agreement.

Mr. HANCE. Thank you very much, Mr. Chairman. I don't have any other questions.

Mr. FRENZEL. Mr. Chairman, I was going to make the same request, but if you are going to bring Commerce in, I think that's better.

Chairman GIBBONS. Yes, they have a lot or explaining to do. I was going to have an oversight hearing on the steel agreement, but I did not realize that it shot so many of them in the leg as it apparently has. It has significant ramifications throughout the industry.

Mr. KNOX. I think they meant well, but it sure left us in a pickle.

Chairman GIBBONS. I know that. I do not believe in dividing up any market. Every time you see people dividing up markets and limiting imports by quotas, you get exactly what we are seeing here. Everybody goes to the high end of the business.

Mr. KNOX. And here we sit.

Chairman GIBBONS. And here you sit. It happened in the Japanese automobile voluntary restraint. It has happened in this one. I don't know when we will learn. We haven't learned for 200 years.

Mr. KNOX. I guess the message is, if you are going to do it, you have got to do it well or not do it at all.

Chairman GIBBONS. If you are going to do it well, you have got to be smarter than any of us, because this is such a complicated society we live in. You cannot divide up this market unless you are going to pick winners and losers and you were a loser.

Mr. KNOX. So far. We are not dead yet.

Chairman GIBBONS. I understand that. However, you know what it means to be a loser. I think every American who likes to divide up markets always thinks they are going to be the winner.

Mr. Jones.

Mr. JONES. Thank you, Mr. Chairman.

Mr. Chairman, I'm delighted that you are going to give more serious deliberation and time to this issue, because I would agree with what the chairman says, that the company represented here today is entitled to some relief. But I hope it is not at the expense of, and of damage to, other companies that may be competitors of Lone Star Steel.

I appreciate the gentleman's testimony, although I am going to have to go back and read it because I do not quite follow all of the logic in your testimony and I want to see if the verbal sounds of illogical statements are also in the written text. So I will go back and read it more carefully. But I have a problem.

First of all, your testimony contradicts the testimony last week of a witness, Mr. Alpert, who said he has tried to purchase unfinished or green tube from American manufacturers, including your company, and without success. This week you say that they were just sort of an informal "Hi Joe, what do you think about thus and such" and you never really got to turning him down and that you are still keeping it alive.

You answered Mr. Hance that you could not have supplied unfinished product at the height of your 1980 and 1981 boom and that you are not furnishing it now. Rather than make a contract with a potential American buyer for unfinished products, you have essentially shut your plant down.

Mr. KNOX. We never had an opportunity, Congressman Jones, to do the alternative that you suggest.

Mr. JONES. Then we have to find out which one of the witnesses are closer to the truth, I suppose, because you are diametrically opposed in what you have testified before the subcommittee; the two of you—you, plural.

Mr. KNOX. Underlying your statement is an assumption that there is a viable business for finishers of prime OCTG material and that remains to be seen. It is a business that hasn't existed. There was finishing going on, but they were finishing nonprime material. Then they were finishing prime material, but under contract to the mills. And whether it is going to be economical to involve the extra handling of stopping of production—a production line before it is done; and transferring that product great distances; having someone else complete the process then; and then sell the end product to the consumer; and what price the consumer will be willing to pay for that product—none of those factors have been determined yet.

Mr. JONES. That is correct. The market will determine that. What we are asking for is to give a chance to these new companies with the new technology in steel finishing, not a guaranteed market or guaranteed success.

But we are just saying, if they want to enter the market, at least they should not be denied having a supply of raw product. If they cannot get it from an American company, and you are shutting them off from an overseas supplier, you, in effect, have made it totally impossible for anyone here to compete successfully. That is what we are trying to avoid.

Mr. KNOX. How did you describe their technology? Is it your assumption that it is different from ours?

Mr. JONES. Our assumption is based upon what we have seen so far, that it is among the most advanced technology in the processing of this particular product. It is very well computerized, robotized, et cetera.

Mr. KNOX. It is new, but all of the mills, well I cannot speak for all the mills. We have new finishing facilities as well, and just as up do date. In fact, we have some proprietary heat treating lines, which I am sure no one has and if they do, I would like to know about it, because I might like to look into whether they are violating our patents. It is not true, Mr. Congressman, that any of these new finishers have better finishing equipment than, at least, Lone

Star Steel. We believe we have as good, or probably better, finishing equipment.

Mr. JONES. Then that is good. You can compete and there should be no reason why you could not compete. The point, I guess, is it is still hard for me to follow the logic as to why you say that you have not turned them down and Mr. Alpert says that he has been turned down.

If he is correct, that he cannot be supplied green tube from the American manufacturers, but he can be from European, why do you state that it is not feasible? I forget exactly what you said in your testimony, that it is not feasible to stop the line at a certain time and have this unprocessed tube go to a competitor.

Mr. KNOX. It is not cost effective.

Mr. JONES. Well, why is it cost effective for another supplier?

Mr. KNOX. It is not and your assumption is that it is cost effective for the Europeans to stop their production lines. I have no reason to believe that the Europeans will stop their production lines and idle their finishing equipment, idle their finishing workers, and sell that product to someone else. It is not the bill, Congressman. It is not the arrangement. You are talking about a business that probably does not exist. That is the problem.

Mr. JONES. Well we will never know if they cannot be supplied.

Mr. HANCE. Will the gentleman yield?

Mr. JONES. Certainly.

Mr. HANCE. I think one of the problems, evidently, is that when the suppliers are producing at a low level, it is not good business for them to interrupt their process and make unfinished tube. They are glad to make green tube when there is a boom in the industry and they are going at full capacity. But during periods of low demand, they do not want to shut down part of their operation and provide green tube to someone else to finish. I would think now, that under the circumstance, we might be able to create jobs right here in the trade subcommittee. We ought to bring Mr. Alpert back and let him bring in a solicitation order. He would tell us how much he wants and then you all could accept it.

Mr. KNOX. We would be happy to sell him tubes, but stop and think for a minute.

Mr. JONES. And he says he would be happy to buy it.

Mr. KNOX. How can he sell the tubes that we cannot? Inducing him into the process does not make it cheaper. It makes it more expensive.

Mr. HANCE. Well, that would be his worry.

Mr. JONES. That is right. That is his problem.

Mr. KNOX. Maybe he will not be able to buy as many tubes.

Chairman GIBBONS. That really goes to the heart of this whole argument. Every time I have dealt with American steel manufacturers, they have the same mind fix that you do. I have some small fabricators in my area. They have told me for 25 years that they cannot get the U.S. integrated steel industry to sell them anything, except what they have left over and is rusting out in the yard. Then these small fabricators say, "We have got to buy from the foreigners because we cannot buy it from anybody else." Then you all righteously come here and say we cannot have this foreign steel.

Mr. KNOX. We are not saying that.

Chairman GIBBONS. Yes, you do. If you are not, you are the first one in the industry I have ever seen which does not do that.

Mr. KNOX. I hope I am, Mr. Chairman.

Chairman GIBBONS. You are really a maverick in the industry—not just a Texan—you are a maverick. [Laughter.]

Mr. FRENZEL. Would the gentleman from Oklahoma yield?

Mr. JONES. I would be glad to yield.

Mr. FRENZEL. If there is no market for your constituents product and they cannot sell it, certainly Lone Star would not object to their buying them from Europe, would they?

Mr. KNOX. We have no objection to them buying it from Europe. Absolutely. There's nothing in the bill or the arrangement that prohibits them from buying them from Europe. The only thing we ask is do not artificially distort the market by saying to the Europeans "You can ship in to this country all of the unfinished tubes you want, but you can only ship in a limited amount of finished tubes." If you strike the arrangement, and the Europeans are free to ship in whatever they want to ship in, then the marketplace will play its role and whether they will stop their production facilities and sell—and idle their facilities, and idle their investments, and idle their employees to let Mr. Alpert finish it, I do not know.

But on the other—but the only way you can force them, force them to sell green tubes into this country and destroy—we are talking about a tail on a horse—destroy the horse is if you have an arrangement which excepts green tubes.

Mr. JONES. But on the other hand, you are going to destroy the pony that is trying to grow. Because if you do not make some exception, or somehow allow the green tube to be supplied to this pony, then it is natural that under this arrangement they are going to send in the more expensive finished products. And so the little pony there in Oklahoma is not going to be supplied by you Americans or overseas. And so it goes.

Mr. KNOX. I think, well, if the mill does not have business, anybody would like to sell anything if it can be purchased at a price.

Mr. JONES. This is what I do not understand. Because you say, at one time when you had a lot of business and you just did not have the time, or it was not efficient to shut down the mill at that particular stage to sell to this little company in Oklahoma, and then, when the business is slack, you are shutting down the whole operation rather than selling to this little company in Oklahoma. And it sounds to me like you are doing it in an altruistic way, saying there is not a market out there anyway.

Mr. KNOX. That is right. You understand that to sell, if you are a consumer, and two companies came to you. One company says, "I purchased my tubes from someplace else and I furnish them," and another company comes to you and says, "I manufacture my tubes from beginning to end and I finish them." Which one would you predict the customer is going to purchase?

Mr. FRENZEL. The cheaper one, of course.

Mr. KNOX. The customer is going to purchase the completely finished tube from the manufacturer, unless the finisher who has bifurcated the manufacturing process and created quality problems by so doing—in division of responsibility—unless he sells at a discount. Now to sell at a discount, he then——

Mr. JONES. Or they have a finer product.

Mr. KNOX. For him to sell at a discount, he has to buy the green tube probably at below the manufacturer's cost of making it. But we do not know that because we have not yet had price discussions with any of the green tube finishers, and we are looking forward to them.

Mr. RIVERS. May I comment, Mr. Chairman? My name is Dick Rivers and I am counsel to this company. At the risk of venturing into an area in which I have no direct business experience, I would like to take a crack at this subject very briefly.

Chairman GIBBONS. You are welcome. We welcome everybody.

Mr. RIVERS. It seems to me that what happened during the unusual and unprecedented experience in this industry 2 years ago was that it is analogous to an automobile dealer who takes a product and takes it all the way through finishing and sells it to dealers in an ordinary year. What happened was, the demand for this product was so great that large, integrated steel producers such as my clients, Lone Star Steel, found that they were unable—that the process of finishing that product which is, say, analogous to, say, putting a coat of paint on a car in an assembly line—that that was actually a bottleneck in their ability to meet the demand.

And so, there was a time when, because—simply because of the aberration in the marketplace, that it really was economic for finishers to take prime oil country tubular goods and finish it in order to keep their product moving through the marketplace. What has happened is that the bottom has dropped out of the market and that the economics which permitted that and induced it, however briefly, probably no longer exist.

I agree there ought to be discussions to explore the feasibility. This plant is down, though, and it is very unlikely that sales to refinishers of this quantity—of this type—are going to do anything at all to bring this plant back to operation. And I think herein lies the critical issue. I am confident that somehow the green tubes issue can be grappled with and mastered. With good will and imagination and skill, we can all handle the green tubes issue. What we really cannot handle, though, and what this company may not survive, is its Government's policies with respect to this arrangement.

What we have done here, or what was done here, is to create two arrangements, the character of which have left one company—an efficient, capable, competent producer of a valuable product—sitting in the middle of the highway and in dire danger of being permanently injured. What is at issue here is that there is going to be probably a 2-year period globally while demand for OCTG, which is very weak, gradually works off the incredible inventories which exist all over the world.

What is happening is, in my opinion, is that the pipe and tube arrangement, which is a leaky sieve at best, is not working and that in the meantime, quantities of oil country tubular goods are coming into the United States from Europe in very curious transactions. It is moving—they are somehow able to compete with the sheriff's auction in the oil patch—they are moving those oil country tubular goods and, in fact, what they are doing is shifting the

burden of working off this surplus of pipe. That is what is at issue here: Whose plant is going to be down the longest.

And right now the circumstances have been created that a plant in east Texas, in 4,000—and 4,000 workers are going to bear the brunt—the brunt globally of working off oil country tubular goods. Eighty percent of the demand in the world for oil country tubular goods is in the United States. The balance of the supplies abroad. And that is as I see it, the real issue in these hearings.

Mr. JONES. I think you make a good point. Mr. Chairman, I do not want to belabor this, but let me backtrack.

I think Lone Star Steel is a very fine company and is a very well managed company and this, in no way, denigrates the operation of Lone Star Steel. But to come in here and ask for a relief from the Government seems to require full, clean hands on the part of the company coming in.

What I still cannot understand in the logic of all of this is that Mr. Alpert says recently he went to Lone Star Steel and other companies in the United States and tried to get a supply of unfinished green tube. This gentleman testified that within the last couple of months they made an inquiry.

It seems to me that if you are down and you have 4,000 people out of work, supplying unfinished product to an American finisher may not provide a whole lot of jobs, but rather than just shut it down, it seems to me that you would be jumping at the idea, instead of saying "they nibbled around, they made an inquiry, and we did not hear much about it." It seems to me that you would be jumping at that.

I agree with what Mr. Hance suggests. Maybe we can get Mr. Alpert and you in here and get a contract here and you would get jobs both places. But what I cannot stand is coming in here and giving relief to any company, relief which results in putting people out of work in my area.

Mr. KNOX. You will have to understand that what happened, and I did not go into great detail because I did not realize how much of a matter of concern it was to you, that the inquiry was for such a small amount. Mr. Alpert is not desirous of buying large amounts of tubes from us. It was for such small amount and it was so indefinite, we would like to talk to you about maybe buying 250 tons.

Mr. JONES. And if it is that small amount, it really will not hurt you to carve out.

Mr. KNOX. No, let me explain something. We cannot start up our plant to make 250 tons. It makes 3,000 tons a day. What are we going to do with the rest. I mean, we would have to sell weights.

Mr. JONES. Then a supplier overseas would not hurt you in that amount.

Mr. KNOX. I am sorry, we have no objection. We would like to see America—Americans prosper. We have no objection. We welcome anyone who will sell unfinished tubes to anyone. Maybe they would like to sell us some unfinished tubes, because as I told you earlier, I believe we have the more efficient and modern facilities and more quality and end product than any finisher I am aware of. If you could make money at it, we could employ our people. We would certainly be selling green tubes ourselves—I mean buying green tubes and selling it. You cannot buy them abroad.

Mr. JONES. Well, thank you, Mr. Chairman.

Chairman GIBBONS. Mr. Frenzel.

Mr. FRENZEL. Mr. Chairman, my concerns are a lot deeper than the gentleman from Oklahoma's are. I wonder, as he does, when there is an opportunity to sell something in a period of recession that why the heck you would even use the telephone. I would be surprised you would not jump into an airplane and send somebody up there to talk to those folks. I guess the business has changed a good deal since I was in it. Apparently you can afford to be very selective about customers when our plants are down. It did not used to be that way in America, as I recall it.

But the problem here is, as Dick Rivers said, who did it and how it was done. We had an agreement with the Europeans and with the steel industry—with the U.S. steel industry which apparently the industry found intolerable. And whoever the industry is, it obviously did not include you, but at least somebody filed some antidumping suits and the government then proceeded to negotiate with someone, and at least part of the someones were the steel industry, whoever it may be, and the European Commission negotiating on behalf of European producers.

And in my judgment, the United States was—the United States was represented by the Department of Commerce, was not a very good bargainer, in the opinion of the chairman, and in my opinion, we should have let those antidumping suits go forward and let the law work as it was intended to work. But, in any case, there was an intention to negotiate.

There are allegations that the bargain driven by so-called U.S. steel industry and accepted by the EC was something that our Commerce Department did not fully understand and that at least the U.S. Government was not as active a participant in the bargaining or as knowledgeable as it should have been and that agreement, when it was OK with the other two parties, was OK with us. That was implemented in a floor amendment on a continuing resolution, which is an inadequate to provide for a legal background for that.

Chairman GIBBONS. Let me add a footnote. Commerce did not hold any hearings anyplace, and did not provide any notice. There was nothing done by way of communication and it sneaked through the House and it sneaked through in the Senate.

Mr. FRENZEL. When that is over, the outs and that is you, come in and say "Hey, we have got some other problems. We have got tubes, we have got specialty steel, we have got other things and nobody took care of us," so we commence to worry about that. And then we add to the agreement by codicils and letters of agreement and fussing around so when we get all done, your products, under the agreement between our country and the EC, are covered by a fuzzier agreement than the basic steel product. And so, you have only the assurance that EC will attempt to get to that level and if it does not, then we will have some discussions.

Now, as I understand it, from the times of the base period, we are talking about some rather large penetration, 15 percent or so. At the end of 1982 we were advised by one of the Government witnesses that that is down to 6.7 percent, which is very close to the 5.9 target, which has been designated for the year end goal. Now if

the EC seems to be doing as well as it is in getting to the goal, why do you need this law in the first place?

Mr. KNOX. Well, first, when you say that the government says that it is doing well getting toward the goal, they are talking about all type of tube lumped together. They are not talking about oil country tubular goods which, as you can see, there are more than three times the historical market share. Nor apparently are they talking about—if there is a subcategory of oil country tubular goods—unfinished tubes that apparently Congressman Jones' constituent feels that he is not getting his share of what they are selling. So they are distorting the market somehow. That is one problem.

The second problem is that what happens even if they get there a year from now and then fall apart 6 months later. In the meantime, we have been left with the promise, a promise that takes away from us the trade laws which you gentleman have created for us and, worse than that, if we use those trade laws and try to protect ourselves, try to remove this uncertainty because we are being harmed right now, the EC can withdraw from the pipe and tube arrangement. And maybe you can stand being harmed right now if the agreement is going to work and that harm will be corrected. But if it is not corrected, then we have suffered this harm without a remedy.

If we exercise those rights under the trade law, the Europeans have the right to withdraw the pipe and tube arrangement, but the basic steel arrangement stays in place. And can you imagine the diversion that that will cause with the basic steel arrangement in place restricting their imports of basic steel products to the United States, but no restriction, not even an ineffective restriction, on their imports of pipe and tubes, which are the high value end of the steel?

Chairman GIBBONS. They are subsidized, though. If they are dumped, they are subsidized, and if they are you have a remedy.

Mr. KNOX. And in a couple of years, we will be found to have been victimized and someone will wonder why the remedy does not make us whole. The problem is the delay, which is another subject I know this subcommittee is tackling.

Mr. FRENZEL. Well, you have some sort of agreement in which you may have no confidence, but which, well, which I think the Europeans are trying to do something on anyway. It would be nothing to stop you from filing a dumping suit and when do you think you might complete that process?

Mr. KNOX. What we would do, oh, if we filed it today? It would be completed in a year.

Mr. FRENZEL. That is your best estimate, Dick?

Mr. RIVERS. Probably.

Mr. HANCE. Would the gentleman yield?

Mr. FRENZEL. I do yield.

Mr. HANCE. If you filed it, though, then what happens to the agreement?

Mr. KNOX. It is gone.

Chairman GIBBONS. Then he becomes the bad boy in the cartel. He would have a hard time at the Iron and Steel Institute. [Laughter.]

Mr. RIVERS. We would become a skunk.

Mr. KNOX. How about the reception I might get, and keep in mind that trade action that I would file would be considered by the very government officials whose agreement I had just invalidated.

Chairman GIBBONS. They have told us they are honest. [Laughter.]

They have said they are very objective. [Laughter.]

Mr. KNOX. I am sure they are. I wonder how happy they would be to see us.

Mr. FRENZEL. The other part of the problem, however, for us is that if we go forward with what you ask, we likewise dump that agreement, because, as you know, the FRG was particularly interested in the tube end of the business, and worked very strong in drafting the letter. I believe that is the letter that we are working on and that it is going to kick that agreement out the window if we unilaterally establish a process that is different from the one that was agreed to in the negotiations.

Mr. KNOX. We have no intention of asking you to establish anything different than what is agreed in the negotiations. If this bill inadvertently goes beyond, somehow, the arrangement; then let us sit down and figure that out and put it in such a shape that it does not go beyond the arrangement, because our request is very simple—make it work.

Mr. FRENZEL. May I consult my counsel, Mr. Rivers, here on that subject? Does that bill, Dick, in your opinion, conflict with our agreement negotiated with the EC and represented by the letter of agreement?

Mr. RIVERS. No, sir, it does not, in my agreement.

Mr. FRENZEL. You do not think it unilaterally seeks to enforce what was purposely left fuzzy in that letter?

Mr. RIVERS. There is no question but what the agreement was left fuzzy and there are two points in which I think this legislation is not or was not contemplated at the time of the signing of the arrangement. There are two issues here.

One of them is clearly, I suspect, that certain of the Europeans, probably most of the Europeans do not contemplate the United States would establish machinery on its own side to ultimately make certain that if the arrangement were to fail, then steps should be taken to make it succeed by the United States. It was not contemplated that it would be spelled out in that fashion. The only significant or material deviation between this bill and the actual terms of the arrangement has to do with the subcategories, the seven subcategories, and they have actually been agreed upon between the United States and the European Community.

Mr. FRENZEL. After 60 days of consultation, agreement is not reached, the Secretary is directed to notify the Secretary of the Treasury to take steps to enforce the import ceiling. That is not a part of our agreement.

Mr. RIVERS. That is the machinery to enforce the agreement after 60 days of consultations. You will note that the bill does actually contemplate that there would be 60 days of consultations under the arrangement with a view to finding ways of making the agreement succeed. And if there are not practical ways of making the agreement succeed, then the bill would take effect. In other

words, this bill has significance only if the agreement were to otherwise fail.

Mr. FRENZEL. I understand that.

Mr. KNOX. Congressman, the arrangement says that if the consultations fail, each party will take actions within its legislative and regulatory framework to make the arrangement work. We are simply trying to assure that there is a legislative framework to make it work.

Mr. FRENZEL. I agree. The problem is, of course, several parties negotiated more than two, and they came to an agreement which left you on the outside. Now you want to get on the inside of that agreement and get down to a certain level which knocks one party's negotiating position into a cocked hat, and no one has any reason to believe that they are going to agree to that. Maybe it knocks the two major parties' negotiating positions.

Mr. KNOX. The Commerce Department has taken a position from the beginning—as I quoted in my prepared statement—and sent a letter to the chief executive officers of the steel companies who had participated in the discussions leading to this arrangement that they were in fact going to establish subcategories for purposes of the pipe and tube bill. And these subcategories are not our subcategories; these are the Commerce Department subcategories.

Mr. FRENZEL. Well, I appreciate your testimony. We have an obvious case of distress.

Mr. Chairman, you are dead right. What a tangled web we have woven by diverting from the basic law in the first place. And I thank them for their good statement.

Chairman GIBBONS. Let me tell you that we now have a protest from members of the California delegation who say that they are being discriminated against because of the agreement which rather obliquely excluded them and their interests. Japan is afraid that they will be called in, even though they apparently do not subsidize their steel industry. As I understand, Japan will not sell steel to the United States as cheaply as they will sell it to other nations around the world because they are trying to live up to some kind of informal agreement they have made with somebody along the road about staying out of our market or avoiding getting too much steel into our markets.

Mr. KNOX. Maybe they have a healthy respect for our trade laws.

Chairman GIBBONS. No. Anyway, they will not sell steel to U.S. fabricators as cheaply as they will sell it to other fabricators around the world. Now, the other fabricators from around the world are bringing their fabricated product into California, and the Californians are concerned. So this issue gets better and better and more complicated as one learns more about it.

Mr. FRENZEL. Excuse me, Mr. Chairman. I think Mr. Rivers would like to make a point.

Mr. RIVERS. Just one brief intervention, Mr. Chairman. I believe if you discuss this issue with the Japanese Government, you will find that they are probably as concerned about the viability of the United States-EC pipe and tube arrangement as we are, if not more so. They do not like to see their market share lost.

Mr. RUSSO. Mr. Chairman, a point of order. I hate to bring this up, but to spend 1 hour and 15 minutes on a noncontroversial

matter when we have 30 other bills that we are supposed to consider this morning is quite disturbing.

We understand the problem with the EC agreement. We have gone over it five different times. It is obviously a very controversial matter. But in deference to those of us trying to reform our trade laws to make them work better for every delegation in the Congress, there are a lot of noncontroversial matters waiting to be considered.

I would be more than happy to listen to Lone Star for another 1½ hours if they want to do it at the end of the hearing; but I would ask the members of the committee that we move on. Otherwise, we will never get out of here.

And I hate to be the one to keep raising it every time we have trade hearings, Mr. Chairman.

Chairman GIBBONS. The gentleman has a good point. As I said earlier, we are going to separate this issue from the noncontroversial trade bills.

Mr. JONES. Would the gentleman yield?

We have to have something to replace the nuclear freeze. [Laughter.]

Mr. RUSSO. I am just getting over the nuclear freeze. That finally got thawed out this morning.

Chairman GIBBONS. I was just going to recognize you. Do you have any questions, Mr. Russo?

Mr. RUSSO. No; I do not have any questions. [Laughter.]

Chairman GIBBONS. How about Mr. Jenkins?

Mr. JENKINS. No; thank you, Mr. Chairman.

Chairman GIBBONS. Mr. Pease.

Mr. PEASE. I had lots of them, but I am very intimidated. [Laughter.]

Chairman GIBBONS. We are laughing, but we realize you have a very serious problem, and we will put it high on the agenda and try to get to it. If there is anyone from Commerce, the Iron and Steel Institute, or the steelworkers present, we are going to be hearing from you in the near future. We want you to help us unravel this entanglement that you have created.

Mr. KNOX. Thank you very much, Mr. Chairman.

Chairman GIBBONS. We will next go to H.R. 1953, Mr. Stark's bill related to the semiconductor industry.

Go right ahead, sir.

STATEMENT OF ROGER C. DAMM, DIRECTOR OF SECTOR BUSINESS PLANNING, MOTOROLA, INC., ON BEHALF OF THE SEMICONDUCTOR INDUSTRY ASSOCIATION, ACCOMPANIED BY MICHAEL GADBAUGH, COUNSEL

Mr. DAMM. Thank you, Mr. Chairman, gentlemen.

My name is Roger Damm, and I am the director of planning for the Motorola semiconductor product sector. I am here representing the Semiconductor Industry Association. On my right is Mr. Mike Gadbaugh, counsel for SIA.

This is not a very long written statement, so I think I will just quickly read it.

The SIA has been and remains a strong advocate of free market competition. We welcome a world with no barriers or distortions to trade in our products, where individual companies are free to compete solely on the basis of their individual competencies.

At the same time we recognize that we are a long way from that idea, and that our industry needs to continue to work actively with the U.S. Government toward this objective. SIA believes that the elimination of U.S. semiconductor duties as proposed by Representative Stark in H.R. 1953 would be a constructive step in the right direction.

Members of this subcommittee will recall the recent United States-Japanese agreement to accelerate the full MTN tariff reductions on semiconductors, which took effect in 1982. This agreement was a major negotiating accomplishment made possible only with your support.

At the time of that negotiation, SIA urged that the two Governments commit to the additional step of duty elimination. We understand that Japan balked at that idea and has indicated it is unwilling to negotiate further tariff reductions unless the European Community reduces its 17-percent duty on semiconductors, which it refused to do during the MTN. While we understand Japan's concern about that high tariff barrier, we do not believe that a European policy that inflicts damage on its own semiconductor consumers should not determine United States and Japanese tariff levels.

Unless Japan's negotiating position changes, we think it will be difficult, if not impossible, for the United States to negotiate further tariff reductions on semiconductors. By setting an example ourselves, we believe there is a good prospect Japan can be induced to also unilaterally eliminate its tariff. The Japanese Government has been under great pressure to further open the Japanese market, which undoubtedly will continue in the face of the deteriorating bilateral United States trade balance with Japan.

Their response has been a series of liberalization packages consisting mainly of tariff cuts and relaxation of technical barriers. We believe that one component of a future package can be semiconductor duty elimination if the United States indicates it will unilaterally eliminate its tariff.

U.S. duty elimination alone would make 40 percent of the world semiconductor market duty-free. If Japan follows, that will rise to 65 percent. With Europe as the only significant exception to duty-free trade, it is quite possible that internal pressures would develop from European semiconductor consumers to join the United States and Japan. Certainly, a 17-percent components cost disadvantage in highly competitive industries like computers and telecommunications will cause concern in European nations that already are lagging behind foreign competition.

From the standpoint of future negotiations on semiconductor tariffs with Europe or Japan, United States duty elimination would maintain United States negotiating leverage because it would not be bound in the GATT. Thus the United States could return the duty back to 4.2 percent at any time without cause for retaliation. This lack of binding in the GATT also may be another inducement for Japan to act unilaterally if we do.

Beyond promoting freer trade in semiconductors, there are two sound national interest reasons for duty elimination.

First, it would improve the competitiveness of our customers by lowering their costs as the tariff savings are passed through to the U.S. market. This would be an advantage in the kind of intensive international competition our customers face due to the targeting of their industries by Japan and other nations.

Second, it would improve the world competitiveness of the U.S. semiconductor industry in at least three respects. Most U.S. producers perform final assembly of semiconductors offshore and pay duties under 806–807. To some extent those duty savings would be retained by U.S. firms for use in research and investment, at a time when the industry's capital requirements are high. Savings would also be realized from the elimination of the substantial duty-related paperwork burden and similar savings would occur for the Government. Finally, lower semiconductor prices are likely to generate additional customers and business revenues.

I do not believe that duty elimination will cause any significant manufacturing operation to move offshore. The effective duty is too small to be the decision factor on plant location. Other factors are far more critical. In fact, the increasing capability to automate production is leading some companies to do more final assembly in the United States. In our own case, we are nearing completion of a state-of-the-art manufacturing plant in Chandler, Ariz.

It is estimated that the benefits of duty elimination for our customers and the semiconductor industry would amount to roughly $100 million annually. As compared with some other recent proposals for U.S. Government support to U.S. electronics producers through research projects funded by the Government, duty elimination is a much more efficient and equitable method for achieving similar objectives. Instead of creating more bureaucracy, it eliminates some existing bureaucracy.

An inevitable question that arises is how SIA can propose duty elimination while complaining about the damaging effects of Japan's targeting practices in the United States market as detailed in our recent study—the results of which have been presented to you on other occasions. The answer is simple. The 4-percent tariff clearly has not had any effect in deterring such practices. When Japanese producers cut 64K RAM prices from $25 to $30 per unit to about $5 per unit in a little over 1 year, or when exchange rates shift by 20 to 40 percent in a short period of time, a 4-percent duty is irrelevant. Besides, an MFN duty is a very dull tool for dealing with problems caused by a single country. Such particular problems are better pursued in a more focused manner, as we have been doing most recently in the context of the United States/Japan high-tech group.

Mr. Chairman, SIA asks the committee to give urgent consideration to Representative Stark's bill or the equivalent thereof and to act favorably upon it.

Since the formal presentation of this testimony I have had an opportunity to talk with the Electronic Industry Association and the American Electronics Association, an AEA is strongly in favor of this. And as chairman of the solid state products division of EIA, that division also actively supports this bill.

Thank you.

Chairman GIBBONS. Mr. Schulze.

Mr. SCHULZE. What indication do you have that the Japanese would follow suit?

Mr. DAMM. Well, there is no indication other than the tremendous pressure they are under to do something. And I have been trying to get these duties down for 15 years through negotiation, and I do not think I will ever get that through negotiation.

Mr. SCHULZE. Historically have you seen the Japanese react to consumer pressure in the past?

Mr. DAMM. Oh, yes; they have reacted to consumer pressure in the past. When the TV prices were discovered to be so high in Japan as compared to the United States, there was tremendous pressure on the Japanese.

Mr. SCHULZE. But they did not react until their industry was competitive.

Mr. GADBAUGH. Mr. Congressman, just this year I believe the Japanese Government unilaterally reduced the duty on some 2,500 items in response to general pressure on the Japanese to open their markets. This item could be included in one of those future packages.

Mr. SCHULZE. What difference would it make to the consumer? How much difference in price would actually be passed through to the consumer?

Mr. DAMM. It is difficult——

Mr. SCHULZE. It would be small; would it not?

Mr. DAMM. There is no question it is going to be small. That is the whole point. It is almost trivial in the sense of the total cost of the product. And yet we pay $6 or $7 million a year in duties ourselves coming into the United States, and that is money that we could use in R&D. Some of it will get passed on to consumers, because even without the Japanese, it is a very competitive market in the United States.

Mr. SCHULZE. I realize you testified on this point, but do you want to elaborate on why you feel this would not create some kind of incentive for plants to go offshore?

Mr. DAMM. Well, again, it is just such a minor fact in the equation, 4 percent. It is less than probably 1 percent in terms of the cost of the product.

The reason the original move was made offshore was the price of labor, which is a factor of 10 to 1; and to be competitive in the world, the whole industry moved that way.

Mr. SCHULZE. And you think that the labor cost would be such a small portion or component?

Mr. DAMM. No; the labor cost is a large portion. The duty cost is small.

Mr. SCHULZE. But, again, my question is why would that not create an incentive for people to go offshore? It seems to me that the labor cost is still a large component, and the incentive would be there to move overseas.

Mr. DAMM. But that is already there, and it is already done. There is no longer—that game has been played since 1964, and the trend now is to come back by reducing the labor content. The labor content is going to be reduced no matter how, either by paying less

for it or having automation. You just cannot have a viable electronic industry with high-priced components.

Mr. SCHULZE. So the choice is to automate or go offshore?

Mr. DAMM. Right. In the past the ability to automate was less, and the easy thing to do was go offshore. And now we are getting with microprocessors the kind of capability control the machinery to the degree that we have to that we can bring it back on.

Mr. SCHULZE. Thank you, Mr. Chairman.

Chairman GIBBONS. Mr. Russo.

Mr. RUSSO. No questions, Mr. Chairman.

Chairman GIBBONS. Mr. Pease.

Mr. PEASE. Thank you, Mr. Chairman.

You represent the U.S. semiconductor industry, is that correct?

Mr. DAMM. Correct. The Semiconductor Industry Association.

Mr. PEASE. These are the manufacturers of semiconductors?

Mr. DAMM. Right.

Mr. PEASE. What percentage of the semiconductors produced by the U.S. semiconductor industry is manufactured in the United States?

Mr. DAMM. Do you mean what part of the total content of a single semiconductor, or are you talking about the total market? The high-technology part is produced in the United States. All of the wafer processing is produced in the United States, and the little wafers, which are small and light, are shipped offshore where putting the little tiny wires on and packaging is done, and then they come back into the United States.

Mr. PEASE. What part of that latter work is done offshore?

Mr. DAMM. The majority of it.

Mr. PEASE. Sixty percent, seventy, eighty?

Mr. DAMM. At least. On the assembly, the U.S. industry in the merchant market, which excludes Western Electric and IBM, which I do not understand, probably over 90.

Mr. PEASE. Over 90 percent?

Mr. DAMM. Yes. That is also done by the Europeans and the Japanese.

Mr. PEASE. And when these parts are returned to the United States are they subject to this duty that you seek to eliminate?

Mr. DAMM. Yes. They are subject to the duty. 806 and 807 excludes the part that was already U.S. content.

Mr. PEASE. So the value that is added overseas is subject to the duty, is that right?

Mr. DAMM. Right.

Mr. PEASE. Do the Japanese also ship semiconductors into our market and pay that duty?

Mr. DAMM. Yes, they do.

Mr. PEASE. What is the comparison between the value of the items the Japanese ship here versus the value of what our own manufacturers process offshore and ship back in?

Mr. DAMM. The Japanese currently have about 10 percent of the U.S. market through imports of semiconductors. Now, that is much higher in some very targeted areas, which is their approach. They have zero percent of a lot, and they have 40 to 60 percent of the things like memories where they concentrated.

Mr. PEASE. What percentage of the Japanese market do United States semiconductor manufacturers hold?

Mr. DAMM. About the same, approximately 10 percent.

Mr. PEASE. And presumably that is a smaller market than ours.

Mr. DAMM. Yes. We are about 6 and they are about 4 billion.

Mr. PEASE. So in practical matters your association does not care whether the Japanese reciprocate or not.

Mr. DAMM. That is absolutely correct.

Mr. PEASE. What you are essentially seeking is relief from the duties for your own products coming into the U.S. market.

Mr. DAMM. Right. It would be nice if the Japanese would reciprocate. We pay 2 to 3 million dollars' worth of duty going into Japan also. It would probably be more beneficial to us to have the Japanese duty go to zero than the other way around, because the Japanese seem impervious to things like exchange rates and profits.

Mr. PEASE. Well, this conversation has helped me understand the purpose of this bill. I could not understand why we would want to grant a unilateral concession to the Japanese only on the hope that they would grant it to us, but now I find out that we do not care whether they reciprocate or not essentially. You are just trying to save money for your own industry. How much money would be saved each year?

Mr. DAMM. Well, I am not sure of the source of $100 million, but to put it in context for 1982, I checked our figures, and we paid $6½ million, and we are approximately 10 percent of the U.S. market, so you could say it is $60 to $70 million for the U.S. semiconductor industry, if everybody is structured as we are, which is a fairly reasonable assumption.

Mr. PEASE. Does the existence of that duty put you at a competitive disadvantage in any way with the manufacturers from other countries?

Mr. DAMM. Well, in the world market in Europe, in particular, having a little bit more money to put back into our R&D and so forth is certainly an advantage. We spend, the semiconductor industry, as capital requirements of 15 to 20 percent of sales and R&D cost of 10 to 15 percent of sales, and every percent helps.

We just have a lot of high capital investment. The equipment every 3 years gets replaced. To keep up is just an ongoing battle, and everything we can do to stay in the forefront of that and to continue to be able to invest at the levels the Japanese are now investing at with their better cost of capital advantages, we need every help we can get in that area.

Mr. PEASE. If we were to eliminate that duty, the same additional capital would be available to the Japanese also, since they would not be paying the duty.

Mr. DAMM. In magnitude it is about one-half or less in absolute dollars.

Mr. PEASE. When you have a finished semiconductor that you began producing here and sent overseas for the addition of the circuits, I guess, or whatever——

Mr. DAMM. The wiring.

Mr. PEASE [continuing]. And then bring it back to the United States, what percentage of the total value is represented by the part added overseas?

Mr. DAMM. I am guessing right now, and it varies greatly between a device that has 3 bonds and a device that has 40 bonds because it makes a lot of difference, but on an average maybe 10 percent.

Mr. PEASE. Ten percent of the value is added overseas?

Mr. DAMM. Right.

Mr. PEASE. Do you have any idea how many people you employ overseas to do the wiring?

Mr. DAMM. I have no idea, but I have no question that there is quite a few.

Mr. PEASE. Would it be in the range of 10,000, 100,000, 1 million?

Mr. DAMM. Less than 100, more than 10.

Mr. PEASE. Thank you, Mr. Chairman.

Chairman GIBBONS. Mr. Jenkins.

Mr. JENKINS. Thank you, Mr. Chairman.

I thank you for your testimony.

As far as Japan is concerned, why would they not want to eliminate their tariff if they could put that additional money into their R&D?

Mr. DAMM. I would not be surprised if they do eliminate it.

Mr. JENKINS. Do you think they might eliminate it?

Mr. DAMM. Well, the Japanese do not pay tariff going into Japan.

Mr. JENKINS. Is it added to the cost?

Mr. PEASE. Will the gentleman yield? I think the gentleman from Georgia is making a good point that I am interested in, too. Do the Japanese ship their semifinished conductors out of the country for final assembly as well?

Mr. DAMM. To a lesser degree because they have more automation. They put a lot of money into automation, and they have gotten a little ahead of us in that area.

Mr. PEASE. You say in our case it is 90 percent of the item that is assembled offshore and then returned to the United States. Do you have any idea what the percentage would be for the Japanese?

Mr. DAMM. I think it would be less than 50.

Mr. PEASE. And as they come back into Japan, then, are they subject to the Japanese tariff?

Mr. DAMM. I am not sure exactly what the Japanese tariff condition is. I think they have a similar kind of relief for their local content, and they may come in totally duty free. I am not sure. I just honestly do not know. But the magnitude is much smaller for the Japanese.

Mr. PEASE. I thank the gentleman for yielding.

Mr. JENKINS. Primarily your company does the assembly work and the R&D, the initial R&D. How much of the actual work is performed here? Do you purchase component parts primarily?

Mr. DAMM. No, no. We start with raw silicon. We grow our own silicon, we process the silicon entirely. We have huge wafer processing facilities in Mesa, Phoenix, and Austin. And we have testified on other occasions in defense of 806 and 807, and Commerce studies in the past have indicated that probably our overall employment is, because we are able to maintain the market share, we are able to grow, it is probably a net plus.

We have been forced to put the assembly offshore, but the high technology, the kind of jobs that are really preferable rather than looking through a microscope and doing this on a day-to-day basis, which is the kind of work we are talking about, is done here in the United States, and our employment has gone up, the industry employment has gone up steadily, and there is no question about that. We have added jobs, other than the recessionary years, every year.

Mr. JENKINS. Does your company make television sets here now?

Mr. DAMM. We have not made television sets for 8 to 10 years. We are out of that.

Mr. JENKINS. So Japan makes all of those?

Mr. DAMM. We are not in the television business.

Mr. JENKINS. Is anyone in the United States in the color television business?

Mr. DAMM. RCA.

Mr. JENKINS. Do they make color sets in this country or just a simple set?

Mr. DAMM. I think they are still making some here.

Mr. JENKINS. I did not think we had anyone in the United States making color sets.

Mr. DAMM. I honestly do not know, but I know we have been totally out of the business for years.

Mr. JENKINS. Are you concerned about industrial targeting from Japan?

Mr. DAMM. Absolutely. And we have testified on that before, too. We have a paper that thick on industrial targeting.

Mr. JENKINS. Of course, with the exchange rate problem in Japan, it makes no difference anyway.

Mr. DAMM. The price never changes a penny in the United States when the exchange rate varies 15 percent. It is totally irrelevant. And the only variable there in my mind is profits in that short time period.

Mr. JENKINS. The only thing that you are really attempting to do with this bill is to get your cost down. Whether they unilaterally or whether they reciprocate, really does not matter.

Mr. DAMM. It would be nice if they did, but we do not want to wait for negotiations, because we know it will take forever because they will tie it into Europe, and Europe is going to be a long time before they realize that they have made a mistake.

Mr. JENKINS. Of course, Japan sometimes reduces tariffs in all of these matters, and then 2 weeks later they rescind that, as they did a few weeks ago.

In response to your answer to Mr. Schulze, it sounds good.

Mr. DAMM. That is not our prime concern.

Mr. JENKINS. Thank you, Mr. Chairman.

Mr. PEASE. Mr. Chairman, may I ask one more question?

Chairman GIBBONS. Sure.

Mr. PEASE. While I still have the patience of my colleague from Illinois, I would like to ask one more question. You say that the Japanese do less off-shore assembly than we. You also said they do that because they are more highly automated than we are.

Mr. DAMM. Yes. That is part of it. I should probably add that the reason initially, as I said before we started in 1964 and at that time, the differential in Japanese labor in Japan and overseas was

not that great. As the Japanese internal labor went up in the mid-1970's then they started maybe 10 years after we did because the labor differential was not there.

Mr. PEASE. Are the companies in this industry making any effort to automate the final assembly process so that you will not have to ship the jobs overseas, or are they committing their discretionary funds to some other area?

Mr. DAMM. We have a very large plant in Chandler, Ariz., that is dedicated to automated assembly.

Mr. PEASE. Automated assembly?

Mr. DAMM. Right.

Mr. PEASE. Would that be common to other companies in this industry?

Mr. DAMM. I am sure they are all working on it. I hope they are not, but I am sure they are.

Mr. PEASE. So to the extent that you are successful, the suspension of duties under this bill would become less valuable to you, right?

Mr. DAMM. It will take years. There is a tremendous investment over there and the growth is so much. We are assembly limited right now strange as it may seem in these economic times.

One of our biggest problems is not enough assembly capacity and as fast as we can bring on the assemblies we will still be using that. It will be this bill—it will be about 5 years at least before we could get everything back on shore and probably 10 or more. We just could not do it that fast.

Mr. PEASE. Well, the statement you made a minute ago illustrates the dilemma that we are facing as a nation. I think you have said that the really high-tech part of this chip manufacturing is done here. We ship the other part, the boring part, looking through the microscopes, overseas.

A heck of a lot of people in this country right now would be delighted to look into a microscope all day and get paid for doing it. While it is important generally for us to go into high technology, one has to wonder what happens to the other people who are not going to be able to find jobs in high technology.

Mr. DAMM. Well, if you would permit me, the number of jobs created in the computer industry, the industrial electronic industry and the rapid growth of calculators, electronic watches, things that only exist because we are able to produce semiconductors at an extremely low price I submit have created far more jobs. It is a big industry. We are just the driving force, but we have opened up a lot of new opportunities.

Mr. PEASE. So you are increasing the size of the pie.

Mr. DAMM. Absolutely.

Mr. PEASE. Thank you.

Chairman GIBBONS. As Mr. Damm has intimated, I have watched as these changes have occurred. I have had some of the fabricators down in my area looking through the microscope in the interim. It will not be long and the industry will phase out this step. Soon they will not have to look through a microscope. A machine will be looking through a microscope and doing the work. It is just a matter of time.

Mr. DAMM. If you have not seen the size of what we are dealing with, I would be happy to show you.

Mr. JENKINS. We are just going to be pushing the buttons.

Chairman GIBBONS. Do not worry. Somebody has got to raise the taxes. As we discover every day, it is a very unpleasant task.

What is the cost of the 64K dynamic RAM or what do you sell it for?

Mr. DAMM. That is currently in the $4 to $5 range in volume quantities and that is 450,000 separate components on that little piece of silicon you see there. When we go to 256K that is four times as many and it will not be much bigger and there is an awful lot of productivity in there.

Chairman GIBBONS. That is just sand. [Laughter.]

Thank you very much.

Mr. DAMM. Thank you very much.

Chairman GIBBONS. Mr. Campbell is here to introduce his folks who want to talk about work gloves, H.R. 1938. We are glad to have you, and I see you have Stan Nehmer with you. He does not know his way around this place. [Laughter.]

Stan, we are glad to have you.

Mr. CAMPBELL. Mr. Chairman, in the interest of time I am going to start and let each individual introduce himself and then I will give you an opening statement.

Mr. NEHMER. Stanley Nehmer. We are consultants to the Work Glove Manufacturers Association.

Mr. BRETON. I am Mike Breton, the marketing manager for Siebe-Norton, Inc., Charleston, S.C.

Mr. SCHULZ. I am Craig Schulz, the executive director of the Work Glove Manufacturers Association.

STATEMENTS OF HON. CARROLL A. CAMPBELL, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA, AND MICHAEL BRETON, MARKETING MANAGER, SIEBE-NORTON, INC., ON BEHALF OF THE WORK GLOVE MANUFACTURERS ASSOCIATION, ACCOMPANIED BY CRAIG SCHULZ, EXECUTIVE DIRECTOR, AND STANLEY NEHMER, CONSULTANT

Mr. CAMPBELL. Mr. Chairman, we appreciate the opportunity to come before you today on behalf of H.R. 1938. This is a bill to close a loophole in the tariff schedules which permit rubber and plastic work gloves to come in at almost half the duty rate.

In addition, I would like to point out that these gloves are made all over the country. They come from many different areas. They are made in South Carolina, Ohio, Georgia, Pennsylvania, Massachussetts, North Carolina, Rhode Island, Louisiana, and Illinois, and I just wanted everyone to understand where they came from.

Mr. PEASE. Was there any significance to the choice of States? [Laughter.]

Mr. CAMPBELL. No, sir, but I can hunt a little harder. [Laughter.]

The group that is here will speak to the issue, but this was brought to my attention by a fabric supplier, Arkwright Mills, which is located in my district. They do not make work gloves in my district.

But the problem is with the loophole that we are dealing with, and I think it is better if I just demonstrate it to you. This is a domestic work glove. This is an imported work glove. It is very difficult to tell the difference between the two.

The difference is that the law says a dress glove can come in if it has fourchettes between the fingers. In order to utilize the loophole of the dress glove in the gloves, the foreign producers take one tiny little strip of fabric and put it on one finger and send it in under the dress glove category at a lower rate and sell it for work gloves in this country. I think it would be very helpful if the members just took a good look at that to show you exactly how a loophole can be exploited. All our legislation is aimed at is to close that loophole.

Essentially let me tell you what we are talking about. The duty rate on work gloves coming in is 24.5 percent, and the duty rate that is charged under this category is 14.5 percent which gives a tremendous advantage to them when they sew in a little piece of cloth to try to get around it in that manner.

Now, Mr. Chairman, the work glove industry is suffering badly at the hands of these imports. The whole industry has better than a 35-percent market penetration at this time from imports. It is a utilization of the loophole that has caused it, and we seek to close it.

The administration testified on April 27 that they wish to see the bill somewhat modified, and I am pleased to report that the administration has indicated that the language which it has suggested for a modification of the bill both closes the tariff loophole and resolves its concerns expressed in that testimony about minimizing compensation.

I understand that the administration will be advising the subcommittee of this fact, so we think that we have overcome most of the objections that we have. But I think there is something else that you should be aware of. I mentioned the overall penetration. Leather work glove imports are now at a 56-percent market penetration level and growing.

It is this type of violation of the spirit of the agreements in which we have entered into that is causing disruption of the marketplace in this country and displacement of jobs of the American people. For that reason we feel that our legislation is necessary. It does no harm to the dress glove industry, none whatsoever.

The dress glove industry has been surveyed, and there is no domestic production of rubber or plastic dress gloves that the revised language would have any impact on whatsoever. So all it is is to get around a loophole, to close a loophole that is being utilized unfairly.

Mr. Chairman, I appreciate the opportunity to be here, and I would be glad to answer any questions or the industry people probably could do it better. If there are any questions for me, I would be happy to take them. If not, unfortunately I am in a hearing in another subcommittee also so that would conclude my testimony.

Chairman GIBBONS. Well, thank you. I will just address my questions generally to the panel.

Who puts that little piece of fabric in the glove? What country is doing this? Who is disguising work gloves as dress gloves?

Mr. SCHULZ. I believe Hong Kong, Taiwan, Korea, Mainland China.

Mr. JENKINS. Mr. Chairman, I fully support the measure although it probably means we are going to be taking the fourchettes out of work gloves at any rate. That is very important, that little piece in there. [Laughter.]

Mr. CAMPBELL. It is extremely important because somehow or another I guess it is supposed to give a soft little spot on the pinky or something. I found no practical use for it. [Laughter.]

Chairman GIBBONS. Mr. Frenzel.

Mr. FRENZEL. Mr. Chairman, 24 percent is a pretty high tariff, is it not, by world standards? Why does the industry need that much protection? Is this a national security matter or something? [Laughter.]

Mr. CAMPBELL. I will let the industry address that.

Mr. NEHMER. Mr. Chairman, this tariff has been cut by a full 60 percent in the MTN and 24.5 percent is just the present stage rate. It is coming down over this whole 6-year period.

Mr. FRENZEL. What will it come down to?

Mr. NEHMER. I just do not know. I believe it is to about 14.5 percent. That will be in 4 years.

Mr. FRENZEL. So we are operating under the theory of comparative disadvantage here. I have no questions.

Chairman GIBBONS. Mr. Pease.

Mr. PEASE. I have just one question. Which U.S. agency determined that that was a dress glove when it came into the U.S. market?

Mr. CAMPBELL. The Customs Department when they were questioned had a reading of the letter of the law. The law said that if there is a fourchette between the fingers then, in fact, that classifies the way the law is written as a dress glove. Therefore, they could not enforce it otherwise. They have had rulings on this because of the way the law is written.

If, of course, there happen to be fourchettes between all of the fingers that would be a different category, but just to put on a little strip there to get around the law is a blatant attempt to circumvent what the intent of the law was.

Mr. PEASE. Well, it is obvious from looking at the product that it is not a dress glove. It is a work glove. It is obvious what is going on here. The Customs Service claims it has no discretionary authority to say that a work glove is a work glove, fourchette or no fourchette.

Mr. CAMPBELL. No, not the way the law is written.

Chairman GIBBONS. Some wise Congress prior to us made this decision about the fourchettes. [Laughter.]

Mr. PEASE. Probably what happened, Mr. Chairman, is that at some point in the past an administrative agency abused this discretion and Congress decided not to give it so much leeway anymore. To indicate a parallel, we are talking about doing that now with some of our trade laws in order to cut down on the discretion of Commerce and the ITC. Maybe there is a lesson in this for us.

Mr. NEHMER. Mr. Pease, there are some people who are in the business of suggesting to importers how to modify a particular product in order to come in under a lower duty schedule. There

was a story in the Journal of Commerce about a month ago about a law firm in New York City that specializes in advising clients how to reduce duties by adding a strip, taking away a strip, making some modification to bring it in under a lower classification.

Mr. PEASE. It is not a red-blooded, patriotic American law firm that is doing it. [Laughter.]

Mr. NEHMER. It is quite legal I assume.

Chairman GIBBONS. Congress makes the law. At least we think we do. Thank you very much.

Mr. CAMPBELL. Thank you, Mr. Chairman.

Chairman GIBBONS. Excuse me, I did not want to run all of you off.

Mr. CAMPBELL. Mr. Chairman, I would like to leave my statement.

[The prepared statement follows:]

STATEMENT OF HON. CARROLL A. CAMPBELL, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

Mr. Chairman, I appreciate the opportunity to appear before the Subcommittee on Trade on behalf of legislation I have filed, H.R. 1938, a bill to close a loophole in the tariff schedules which permits rubber and plastic work gloves to come in at almost half the duty rate.

In addition, I want to take the opportunity to welcome Michael Breton from my home state of South Carolina to the Committee. Mr. Breton is Marketing Manager for Siebe-Norton, a producer of work gloves in Charleston, South Carolina. Mr. Breton is here on behalf of the domestic work glove industry to testify in support of my bill.

A fabric supplier to the work glove industry, Arkwright Mills, which is located in my district, first brought the loophole problem to my attention and the fact that as a result of this loophole, production and employment in the work glove and its supplier industries were being hurt. In response, I introduced H.R. 1938 to close the loophole.

I am holding two work gloves—they are virtually identical except for the token fabric fourchette (this little strip of fabric between the seams along the inside of the glove's little finger). According to U.S. Customs, having this "textile fabric fourchette" puts the glove in a category dutiable at only 14.5 percent rather than the proper duty rate of 24.5 percent. My bill would require that any glove receiving this lower duty must have fourchetts between each of the fingers.

Mr. NEHMER. Perhaps it would be appropriate if Mr. Breton's statement could be submitted for the record.

Chairman GIBBONS. Fine. We would be happy to have it.

[The prepared statement of Mr. Breton follows:]

STATEMENT OF MICHAEL BRETON, MARKETING MANAGER, SIEBE-NORTON, INC. ON BEHALF OF THE WORK GLOVE MANUFACTURERS ASSOCIATION

SUMMARY

H.R. 1938 will close a loophole in the tariff distinction between work gloves and dress gloves which costs the U.S. work glove industry sales and jobs and results in the loss of revenue to the U.S. Government. The bill provides a new headnote definition and a change in the description of certain glove categories in order to make clear that all imported work gloves will enter in the proper work glove tariff categories rather than in a certain dress glove category with a lower tariff.

Foreign work glove producers are able to enter their work gloves in the dress glove category by inserting along the little finger of their gloves a small strip of textile fabric. A dress glove normally must have such strips of material—called fourchettes—from finger tip to finger tip between each of the four fingers to be considered a dress glove. Work gloves traditionally do not have fourchettes. However, the current Tariff Schedule language contains a loophole in that the presence of a fourchette along only one side of one finger is judged by the U.S. Customs to make it eligible for the lower duty dress glove category. H.R. 1938 closes that loophole by

requiring that a glove have fourchettes between all four fingers in order to be eligible for the lower duty dress glove category.

STATEMENT

I am Michael Breton, Marketing Manager for Siebe-Norton, Incorporated, located in Charleston, South Carolina. I am speaking on behalf of the Work Glove Manufacturers Association, the WGMA, in support of H.R. 1938, a bill to clarify for duty purposes the distinction between work gloves and dress gloves. I am accompanied by Craig Schulz, Executive Director of the Work Glove Manufacturers Association and by Stanley Nehmer, the Association's representative in Washington. We are grateful to Congressman Carroll Campbell for introducing this bill to correct a flagrant tariff loophole practice.

The WGMA is a trade association whose members account for the majority of domestically-produced work gloves. The WGMA's primary membership consists of 29 work glove manufacturers, but it has an additional 46 associate member companies.

The effect of H.R. 1938 will be to close a loophole in the tariff distinction between work gloves and dress gloves which currently results in the loss of substantial revenue to the U.S. Government and costs the U.S. work glove industry sales and jobs. The bill will provide a new headnote definition and a minor change in the description of certain glove categories in order to make clear that all imported work gloves will enter in the proper work glove tariff categories rather than in dress glove categories with lower tariffs.

In order to understand just how the foreign producers are evading the proper tariff, it is necessary to explain a few technical terms. In the glove industry, the identifying feature of a dress glove has long been the presence between the four fingers of strips of material—called "fourchettes"—extending along the side of each finger from finger tip to finger tip. Sometimes there may also be an additional strip along the outside of the little finger called a "sidewall." Fourchettes and sidewalls allow for the closer and more comfortable fit required in dress gloves. Work gloves, however, traditionally have had neither fourchettes nor sidewalls. Within the various subdivisions of the current tariff schedule, therefore, gloves are generally separated into either of two categories: those "with fourchettes or sidewalls" (dress gloves) and those "without fourchettes or sidewalls" (work gloves).

Among those gloves made of fabrics which have been coated or impregnated with rubber or plastic compounds, the distinction is particularly important since the tariff on work gloves made of rubber- or plastic-coated fabric is 24.5 percent while the tariff on dress gloves of rubber- or plastic-coated fabric (typically simulated leather) is only 14.5 percent. It is in this latter category that foreign producers are entering their work gloves at the lower dress glove duty.

The way that foreign producers enter their work gloves at the lower tariff is by adding, at negligible cost, a single token fourchette on the inside of the little finger of each work glove in order to have the glove classified as a lower-dutied dress glove. U.S. Customs classification rulings have repeatedly determined that under the current tariff schedule language, a single token fourchette does transform a work glove into a dress glove for tariff purposes. I am holding two virtually identical work gloves which differ only in that one of them (the imported one) has a token, functionally superfluous fourchette on the inside of the little finger.

A situation, therefore, exists in which an industry's long-standing and fundamental definition of a product as well as the clear intent of the law have to be ignored because of a clever—but devious—manipulation of the tariff schedule language by foreign producers. The industry has always defined a dress glove as having complete fourchettes extending between each of the four fingers. The proposed legislation remedies the problem by adding a headnote to the tariff schedule requiring that imported gloves have such complete fourchettes in order to be properly classified as dress gloves.

The domestic industry believes that the volume and value of imports with the token fourchette have become quite significant. Because U.S. Customs data do not separately identify these work gloves from the true dress gloves entering in that tariff schedule category (TSUSA 705.8520), we do not know precisely what proportion of the $10 million of 1982 imports of gloves in this category were true dress gloves versus work gloves with the token fourchette. The industry is aware, however, that it is losing sales. We are also mindful of the revenue loss to the U.S. Government resulting from these gloves being assessed the lower tariff.

The competitive advantage which these work gloves gain through evading the proper tariff hurts the U.S. companies and workers which make these rubber or plastic coated work gloves. WGMA members produce these gloves in South Carolina,

Ohio, Georgia, Pennsylvania, Massachusetts, and other states. These companies employ in excess of 3,000 workers and are facing severe economic times. However, even before the onset of the recession, these companies and the U.S. work glove industry as a whole were suffering from imports whose market penetration has grown to at least 35 percent while domestic production, employment, and market share have continued to fall. The U.S. work glove industry and its products are import sensitive and have been acknowledged as such as evidenced by the U.S. Commerce Department awarding a technical assistance grant to the WGMA to help the industry deal with import competition.

We should also point out that the U.S. work glove industry is not alone in being hurt by the imported gloves with token fourchettes. As a supplier of fabric from which U.S. gloves are made, the U.S. textile industry as well is hurt by these imports.

It is noteworthy that foreign producers have now begun to use the token fourchette tactic with yet another type of rubber and plastic coated work glove—the consumer "gardening glove." In other words the threat of further loss of Government revenue and the threat of further loss of sales and jobs worsens.

The industry believes that it has already contributed to "free-er" trade in living with the maximum allowable 60 percent reduction in the tariff on rubber and plastic work gloves which resulted from the Tokyo Round of the Multilateral Trade Negotiations. It is unjust to force the industry to confront imports at even lower rates because the foreign producers can evade the proper tariff by adding a token fourchette.

In the Administration's April 27 testimony, it stated that the language in H.R. 1938 not only closed the work glove loophole but also affected imports of certain dress gloves. The Administration said, however, that it would consult with the industry to find language which narrowed the coverage of the bill just to the work glove imports concerned.

In the consultations between the Administration and the industry subsequent to the April 27 hearing, the Administration sought to resolve its concerns through a broader clarification and simplification of the work glove/dress glove distinction problem. The Administration has suggested a change in the language of the bill which would permit the closing of the work glove loophole but would also considerably simplify the tariff treatment of dress gloves, and would make the tariff distinction between dress gloves and work gloves consistent with long-standing industry practice. According to the Administration's language, if an imported glove had fourchettes between each of the four fingers (the industry definition of a dress glove), it would receive the lower duty regardless of whether its fourchettes are fabric or other material. If the glove did not have fourchettes between each finger (and thus is a work glove), it would be assessed the higher duty. The Adminstration's revisions modify Section 2 of H.R. 1938 by deleting from Tariff Schedule item 705.85 the phrase "textile fabric" and by removing from the bill reference to Tariff Schedule items 704.40, 704.45, and 705.35.

Because the language has an effect on the tariff rate on rubber or plastic dress glove imports, the WGMA emphasized to the Administration that the work glove industry would require the Administration's strong assurances that U.S. dress glove producers would not be adversely affected by the language.

The Administration has given us these assurances. We, therefore, endorse the Administration language and suggest that H.R. 1938 be amended accordingly.

In conclusion, the U.S. work glove manufacturers believe that they face a serious problem in the form of a tariff classification loophole. Because the U.S. Customs Service has made clear by its rulings that a change in the tariff schedule language is necessary to solve the problem, the industry has appropriately turned to Congress to correct the tariff schedule language. H.R. 1938 makes the necessary corrections to close the loophole and stop the tariff evasion practice. It is that simple. We, therefore, ask that the Subcommittee favorably report out H.R. 1938.

Chairman GIBBONS. We now have one of Mr. Frenzel's bills, H.R. 1967, a bill to provide duty reduction on certain unwrought lead. We have the Ethyl Corp. and the Lead-Zinc Producers Committee, and we again have our friend Stan back.

All right. Let's see. Mr. Turnipseed, you are the first witness.

STATEMENT OF MAX TURNIPSEED, MANAGER, INTERNATIONAL TRADE AFFAIRS, ETHYL CORP., ACCOMPANIED BY ELBERT E. MOORE, JR., MANAGER, METALS SUPPLY

Mr. TURNIPSEED. Mr. Chairman and committee members, I am Max Turnipseed, and I have with me this morning Mr. Elbert Moore who is manager of our metals supply at Ethyl Corp.

I am here to speak this morning on behalf of Ethyl Corp., and in addition to us, four additional battery manufacturers, Exide Corp., Globe Battery, Hammond Lead Products, and Prestolite Battery Co. In addition to those four companies the Battery Council International which represents some 50 domestic battery manufacturers, 7 integrated and about 43 regional manufacturers.

The Battery Council International will be submitting a written statement for the record prior to your May 12 deadline.

Chairman GIBBONS. Fine. We will put it in the record.

Mr. TURNIPSEED. We have in our written statement the background. We will not need to go into that. Mr. Frenzel and you, I think, are quite familiar with this matter. It came before you about 3 years ago and we are here today to ask for an extension of the current duty rate which was a compromise agreement worked out between, at that time, Mr. Nehmer and his clients and the lead consuming industry.

Thanks to the able support of Mr. Frenzel and other Members of Congress we were able to put it into the current law. The dual duty rate of 3 percent but not less than 1.0625 cents per pound. That has worked quite well for, I think, both industries. The situation has now taken a full turn from 1976 when the rate was first converted from a specific rate to an ad valorem during the MTN.

The price of lead was roughly 20 cents then and that is what the MTN rate was based on. The price rose to 52 cents back in 1979 when the current law was put into effect, and now we are back to a 20-cent price range. So I think it is evident from the movement of lead prices and the lead industry in total with the demand up and down, that it was a rather unstable situation then, and continues to be today.

So we are here to speak in support of the bill that Mr. Frenzel has introduced and point out that we believe this additional 5 years will allow some additional time to evaluate what the most appropriate duty rate should be on the unwrought lead that we are here speaking about. If the duty was reduced to the 3-percent level that would be called for if this extension is not granted, pardon me to the 3.5-percent level, there would be about a 35-percent reduction currently in the amount of duty being collected.

We estimate that would have an annual economic impact of about $800,000 based on some four-tenths of a cent difference between the specific rate and the 3.5 straight ad valorem that would result. About four-tenths of a cent a pound difference and we have got roughly in the last couple of years annual imports in the 200-million-pound range so that is how the $800,000 number is arrived at.

We are joined by the lead producers, and we are supported by both the primaries and many of the secondary lead producers in this matter, and I think you had testimony from the administra-

tion on the 27th that they have no opposition to this bill. Also, we do have a companion bill that has been introduced in the Senate by Mr. Danforth, and Senators Trible and Warner have joined in cosponsoring that companion bill.

So we submit that H.R. 1967 should be approved by your committee and would recommend your approval of it. Thank you.

[The prepared statement and additional material follow:]

STATEMENT OF MAX TURNIPSEED, MANAGER, INTERNATIONAL TRADE AFFAIRS, ETHYL CORP.

TOPICAL OUTLINE OF STATEMENT IN SUPPORT OF H.R. 1967

Speaking in support of H.R. 1967.

Representing Ethyl Corporation and speaking on behalf of Exide Corporation, Globe Battery Division of Johnson Controls, Hammond Lead Products, Prestolite Battery Company and the Battery Council International (BCI).

Annual lead consumption of these companies and the companies that are members of BCI exceeds 70 percent of total U.S. lead consumption.

Extension of a duty rate that temporarily reduces the previously established MTN duty rate that became effective January 1, 1980.

U.S. lead industry in severely depressed conditions. Prices, demand and production are all significantly down.

Many domestic lead producers, particularly secondary ones, are currently operating near breakeven levels with secondary production running at about 50 percent of capacity. Under these conditions, .4 cent per pound is a significant price consideration.

Extension of current duty rate will provide a continuing degree of stabilization to the domestic lead industry for an additional five years.

Without extension of the current duty rate, the actual dollar amount of duty will decrease some 35 percent at today's lead price levels—about .4 cent per pound.

Annual economic impact based on current lead prices and import levels would be about $800,000.

The domestic primary lead producers and the largest secondary producers have all indicated support for H.R. 1967.

Administration does not oppose H.R. 1967.

Enactment of H.R. 1967 will be in the interest of the lead industry and the United States by helping to maintain stability in an important domestic industry.

STATEMENT

I am Max Turnipseed, Manager, International Trade Affairs, Ethyl Corporation. Accompanying me is Mr. Elbert E. Moore, Jr., Manager, Metals Supply for Ethyl Corporation. I am here to speak on behalf of Ethyl Corporation, four other individual companies and for a trade association, Battery Council International, which represents 50 domestic producers of lead-acid storage batteries. Each of the companies represented consume lead in the manufacture of products they sell and in total use over 70 percent of the lead that is consumed annually in the United States. I will be speaking in support of H.R. 1967.

The individual companies in addition to Ethyl Corporation, that I speak on behalf of are Exide Corporation, Globe Battery Division of Johnson Controls, Hammond Lead Products and the Prestolite Battery Company. The full company names, addresses and the contact person at each of these companies are reflected on Exhibit I to this statement and is submitted for the record. the Battery Council International will also be submitting a written statement for the record in support of H.R. 1967. Additionally, it is my understanding the Committee has already received a letter from Schuylkill Metals Corporation written in support of H.R. 1967. For the record, Schuylkill is the largest secondary lead producer in the United States based on their capacity.

BACKGROUND

During the Tokyo Round of the Multilateral Trade Negotiations (MTN) the rate of duty on unwrought lead, Item number 624.03 in the Tariff Schedules of the United States (TSUS), was a specific rate of 1.0625 cents per pound. This specific rate was to be converted to an *ad valorem* rate of 5.1 percent based on a dollar value equivalent

of 20.83 cents per pound, but further MTN negotiations resulted in a reduction of the 5.1 percent rate to a 4 percent to take effect January 1, 1980. In bilateral negotiations between the United States and Mexico during the later part of 1979 a further concession was provided which reduced the 4 percent rate to 3.5 percent. This is the rate that became effective January 1, 1980 for TSUS Item 624.03, unwrought lead.

The present law that applies to TSUS Item 624.03 is contained in Section 114 of Public Law 96–609. Provisions of this section temporarily reduces the MTN rate of duty for unwrought lead to a rate of 3 percent ad valorem on the value of lead content, but not less than 1.0625 cents per pound on the lead content. This provision is scheduled to expire June 30, 1983. These provisions are essentially the results of a compromise reached during the 96th Congress after domestic lead producers and consumers worked with members of the Congress to fashion a provision acceptable to both. The temporary reduction enacted was primarily to provide for a period of stabilization of the rates of duty on unwrought lead and to allow evaluation of the proper ad valorem equivalent of the pre-existing specific duty rate.

CURRENT STATUS

Today, conditions in the U.S. and world lead industries are quite different than those existing three years ago. For similar, but different reasons, it appears that additional time to allow the domestic lead industry to stabilize is still a prudent course of action. Both lead producers and consumers believe the current tariff rate for unwrought lead continues to help stabilization of the industry and that an extension would be equally beneficial. The total U.S. consumption and production of lead are both down over 20 percent since 1979 and the current price levels for lead are less than one-half of what they were when section 114 of Public Law 96–609 was enacted. The data supporting these statistics is reflected on Exhibit II to this statement and is submitted for the record. The lead market conditions that prevail today are essentially reversed from those in 1979. Total U.S. consumption and production were increasing then, and prices for lead averaged over 50 cents per pound.

REASONS FOR EXTENDING DUTY REDUCTION

The reasons for extending the duty reduction on unwrought lead are (1) to provide for the continuing degree of stabilization the current duty rate is allowing, (2) to assure domestic lead consumers of adequate supplies of lead at reasonably competitive price levels considering the unstable world price levels and decreasing demand levels that have prevailed for the past three years, and (3) to provide domestic lead producers, both primary and secondary, with a minimum protective level of duties on lead imports that may otherwise revert to a rate that could be harmful to the domestic lead producing industry that is currently under extreme economic pressures. One of the four primary lead producers that were operating smelters prior to 1981 has ceased operations and the total current lead production levels at the secondary smelters is estimated to be only 50 percent of capacity. The specific duty rate minimum of 1.0625 cents per pound, which is part of the current rate, will continue to help safeguard against excessive imports from foreign competition that could have damaging effects on the domestic lead industry.

Should the extension of the current duty rate on lead not be enacted, the effect would be to reduce the amount of duty collected on lead imports by 35 percent based on lead prices that prevail today. For some domestic producers, particularly the secondary ones, now operating near break-even conditions, this additional 4/10ths of a cent per pound is significant. Price levels would have to increase to above 30 cents per pound before the straight ad valorem rate of 3.5 percent would provide for the same level of duty that the current compound rate does with the minimum of 1.0625 cents per pound of lead content.

Ethyl Corporation and other U.S. lead consumers depend upon long-term domestic sources of both primary and secondary lead supply as well as world market sources during high demand periods. When lead supply is equal or less than demand, prices have increased and the U.S. has needed imports of lead. Today however, the U.S. demand for lead is considerably less than domestic production capacities and prices for domestic and world market lead are at levels below the 1975 producer price average. More pressure on the current lead price levels from further duty reductions could have a severe adverse impact on the U.S. lead industry. The annual impact based on current lead prices and import levels is estimated to be about $800,000. Domestic lead consumers must depend upon this industry for adequate and reliable supply sources of lead, with a long-range perspective being of primary importance. A strong viable domestic lead industry is necessary to provide this type of supply source and it doesn't appear that world conditions in the lead industry

have stabilized to a point where some appropriate permanent duty rate is yet determinable.

CONCLUSION

Extending the current duty rate an additional five years should allow the moderating effects of an ad valorem rate with a minimum specific rate to help with the unstable conditions that have prevailed over the past five years in the worldwide lead market. I believe a five-year extension would serve the interests of both the U.S. producers and consumers of lead. The lead consuming companies that use over 70 percent of the lead annually consumed in the U.S., and as you already know, all of the primary U.S. lead producers share this same view. Based on testimony given to you on April 27th by representatives of the Administration, I understand they too have indicated no opposition to H.R. 1967. You may also wish to note for the record that a companion bill, S. 906, has been introduced in the Senate by Senator Danforth of Missouri and co-sponsored by Senators Warner and Trible of Virginia.

Thank you for the opportunity to present our views in support of H.R. 1967. It is our hope that you will be recommending that H.R. 1967 be enacted.

EXHIBIT 1.—*Listing of individual companies and trade association supporting H.R. 1967*

Company/trade association	*Contact person(s)/telephone number*
Battery Council International, 1101 Connecticut Avenue, N.W., Suite 700, Washington, D.C. 20036.	Mr. Robert Wilbur, Director, Government Relations, (202) 857-1100.
Ethyl Corp., 330 South Fourth Street, Richmond, Va. 23219.	Mr. Max Turnipseed, Manager, International Trade Affairs, (804) 788-5675; Mr. Jack C. Wright, Vice President, (504) 388-7401; Mr. Elbert E. Moore, Jr., Manager, Metals Supply, (504) 388-7273.
Exide Corp., 101 Gibralter Street, Horsham, Pa. 19044.	Mr. Thomas A. Parker, Manager, Metal Purchases, (215) 441-7478.
Globe Battery Division, Johnson Controls, Inc., 5757 North Green Bay Avenue, Milwaukee, Wis. 53201.	Mr. Milt Zilas, Vice President, (414) 228-2216.
Hammond Lead Products, Inc., Post Office Box 308, Hammond, Ind. 46325.	Mr. William Peter Wilke, IV, Vice President, (219) 931-9360.
Prestolite Battery Co., an Allied Company, 511 Hamilton Street, Toledo, Ohio 43694.	Mr. George E. Deem, Senior Buyer, (419) 255-4406; Mr. Chris Neilsen, Director, Maintenance & Process Analysis, Allied Corp., Post Office Box 2332R, Morristown, N.J. 07960, (201) 455-3367.

EXHIBIT II.—U.S. LEAD CONSUMPTION/PRODUCTION/IMPORTS/EXPORTS/PRICES

[Historical/data—unwrought lead]

Year/month	Data in short tons [1,2]					Average primary producer price cent/lb.[3]
	Total reported consumption	Primary production	Secondary production	Imports	Exports	
1975	1,297,098	636,122	658,456	100,471	21,683	21.53
1976	1,490,072	652,877	726,569	143,767	7,685	23.10
1977	1,582,338	604,838	835,102	263,714	10,221	30.70
1978	1,579,327	622,997	847,937	248,704	8,326	33.65
1979	1,497,302	634,502	883,357	213,126	9,957	52.64
1980	1,179,807	603,615	744,697	90,814	120,534	42.46
1981	1,286,507	547,923	704,722	112,842	25,706	36.53
1982 [4]	1,175,282	565,273	594,067	100,539	61,319	25.54
January 1983 [4]	90,720	56,791	45,445	12,877	3,991	22.03
February 1983	(5)	(5)	(5)	(5)	(5)	21.12
March 1983	(5)	(5)	(5)	(5)	(5)	20.71

[1] American Bureau of Metal Statistics, Inc. (ABMS), nonferrous metal data.
[2] U.S. Department of Interior, Bureau of Mines, Mineral Industry Surveys, Lead Industry.
[3] Metals week.
[4] Preliminary.
[5] Data not yet available.

Chairman GIBBONS. All right. We now have the Lead-Zinc Producers Committee. Mr. Romagnoli.

STATEMENT OF EMIL A. ROMAGNOLI, MANAGER, REGULATORY AFFAIRS, ASARCO, INC., ON BEHALF OF THE LEAD-ZINC PRODUCERS COMMITTEE, ACCOMPANIED BY STANLEY NEHMER, CONSULTANT

Mr. ROMAGNOLI. My name is Emil Romagnoli, and I am manager of regulatory affairs of ASARCO Inc. I am here today on behalf of the Lead-Zinc Producers Committee and speak on behalf of H.R. 1967, which as Mr. Turnipseed has already noted is a bill that would extend the duty reduction on certain unwrought lead for a period of 5 years.

Appearing with me is Mr. Stan Nehmer who represents the lead-zinc producers. The membership of the Lead-Zinc Producers Committee includes all U.S. producers of primary refined lead namely lead metal produced from lead ores or concentrates. The lead producing members of the committee are AMAX Lead & Zinc Inc., ASARCO Inc., and St. Joe Minerals Corp.

The bill before the Subcommittee on Trade extends for a period of 5 years the current import duty arrangement for unwrought lead other than lead bullion. The duty on unwrought lead is 3 percent ad valorem on the value of the lead content but not less than 1.0625 cents per pound of lead contained.

At the time of the MTN the then existing specific duty rate of 1.0625 cents per pound, as has already been noted, was converted to an ad valorem rate based upon the prices in effect at that time of 5.1 percent. This duty was lowered during the MTN to 4 percent and was subsequently reduced further 3.5 percent as a result of bilateral negotiations with Mexico.

The current arrangement is the product of a compromise reached in 1980 which temporarily reduced the ad valorem duty from 3.5 percent to 3 percent but created a duty floor of 1.0625 cents per pound. The purpose of this legislation was simultaneously to pro-

vide price stability for lead consumers and to afford the U.S. primary lead industry an adequate safeguard against the damaging effects of low-priced imports.

The bill passed by Congress covers the period from January 1, 1980 through June 30, 1983. We believe that the legislation has worked well and has benefited both producers and consumers, and we recommend its extension.

The U.S. lead industry has every reason to believe that it should have a viable economic future. The United States has 27 percent of the world reserves of lead and has among the lowest cost mines and some of the most efficient smelters in the world.

However, the U.S. lead industry is currently in a severely depressed condition with lead prices that are at only half of the level of less than 2 years ago. The recession is not the only source of the industry's problems.

Global overcapacity and the resulting further depression of prices have resulted from foreign governments encouraging and in some instances subsidizing mining and smelting operations. The U.S. industry is vulnerable to injury from lead imports from foreign producers willing to export at any price in order to maintain their production and employment levels.

The U.S. industry has suffered a contraction of capacity most dramatically with the recent closing of the Bunker Hill operations previously owned by Gulf Resources & Chemical Corp. based in Kellogg, Idaho. During this period of great difficulty for the U.S. lead industry, the current tariff arrangement has prudently helped dampen the damaging effects of lead imports and has helped contribute to supply stability.

The major U.S. lead consumers, as we have heard, have indicated their desire to have the current arrangement extended for another 5 years. I believe that they would also agree that it is in their interest and in the interest of the Nation as a whole to maintain a healthy, economically competitive domestic lead industry.

In view of these facts, the U.S. primary lead producers are pleased to join with the U.S. consuming industry in support of the extension of the temporary duty reducton on unwrought lead as provided by Mr. Frenzel's bill, H.R. 1967.

Thank you, Mr. Chairman.

Chairman GIBBONS. Thank you. Are there any questions?

Mr. FRENZEL. Mr. Chairman, I must say it was lots of fun to deal with Max and Stanley several years ago, and we are indebted to you for doing this without putting the committee through unnecessary labor. Thank you very much.

Chairman GIBBONS. Our next bill is Mr. Pease's bill, H.R. 1620, a duty suspension bill. As a witness we have the National Knitwear & Sportswear Association represented by Mr. Hibshman.

A VOICE. Mr. Chairman, we do not have Mr. Hibshman. We have Seth Bodner, executive director of the National Knitwear & Sportswear Association.

Chairman GIBBONS. We are glad to have you here, Seth.

STATEMENT OF SETH BODNER, EXECUTIVE DIRECTOR, NATIONAL KNITWEAR & SPORTSWEAR ASSOCIATION, ON BEHALF OF NORBERT K. HIBSHMAN, VICE PRESIDENT, ACCOMPANIED BY STANLEY NEHMER, CONSULTANT

Mr. BODNER. I have Mr. Hibshman's statement. He was unable to be present because of the uncertainty regarding the scheduling of this session.

Chairman GIBBONS. We will put it in the record. I can understand that.

[The prepared statement follows:]

STATEMENT OF NORBERT K. HIBSHMAN, VICE PRESIDENT, NATIONAL KNITWEAR & SPORTSWEAR ASSOCIATION, AND PRESIDENT OF LION KNITTING MILLS, CLEVELAND, OHIO

SUMMARY

The National Knitwear & Sportswear Association, located in New York, New York, represents more than 400 domestic manufacturers of knit goods.

Mr. Norbert K. Hibshman, Vice President of the Association and President of the Lion Knitting Mills of Cleveland, Ohio, is representing the association today in support of H.R. 1620.

Since flat bed weft knitting machines are a primary tool of the domestic knit garment producer, particularly in the sweater field, and since machines of this type in needle beds wider than 20 inches are not now produced in the United States, import duties on the machinery would impose an added burden to domestic manufacturers already hard-hit by sweater and other knit apparel imports. Continuing the suspension of duties on this machinery and its parts preserves a small assistance to the domestic industry that was generated by the original enactment of this legislation three years ago. It has ameliorated the price increases in basic equipment and has helped domestic manufacturers purchase new machinery coming on the market which, in turn, has offered some assistance in their ability to meet intense low-wage based foreign competition.

STATEMENT

Mr. Chairman, members of the Committee, I am Norbert K. Hibshman, President of The Lion Knitting Mills of Cleveland, Ohio, and Vice-President and Member of the Board of Directors of the National Knitwear & Sportswear Association, a not-for-profit corporation headquartered in New York City. On behalf of our domestic manufacturers and suppliers, I want to express our gratitude to Congressman Pease for introducing H.R. 1620.

The National Knitwear & Sportswear Association represents domestic knitwear and sweater producers. Our member firms are located throughout the United States including California, the Southern tier of states, and are especially concentrated in the Northeast, particularly in New York, New Jersey, Pennsylvania and New England. Unfortunately, Mr. Chairman, we are not as heavily concentrated in Ohio as in the past. The Cleveland area in particular has suffered a substantial erosion of jobs and production in this industry during the past fifteen years. At this time, there are several important mills left, including Dalton Industries, Ohio Knitting Mills, and my own, The Lion Knitting Mills, and we continue to need the equipment which is the subject of this legislation.

With me today, is Mr. Seth Bodner, Executive Director of the National Knitwear & Sportswear Association and Mr. Stanley Nehmer, of Economic Consulting Services Inc. located in Washington, D.C. who is a consultant to our association. We are here to testify in support of H.R. 1620.

Notwithstanding continued negotiations over many years, the impact of knitwear imports on the domestic market continues to be extremely serious. Sweaters, a staple item of American knitwear producers, have experienced perhaps as high an import impact as any major product in the entire textile/apparel spectrum. By our estimates, approximately 60 percent of the entire U.S. consumption of sweaters was imported in 1982. The major suppliers are such low-cost producers as the People's Republic of China, Korea, Taiwan, Hong Kong. Additional low-cost imports have come from such little known, far-off places as Sri Lanka, the Maldive Islands, and Mauritius. In each instance, the U.S. Government has sought to negotiate agree-

ments with these countries to limit exports of their sweaters to the U.S. market, but such agreements—or unilateral quotas—have come into effect only after significant chunks of what should, and could have been U.S. business, were lost. Several tables on recent knitwear trade statistics are attached for the information of the Committee. The Association's position on this subject is well-known and is spelled out in its "Open Letter to the Congress" and in statements filed in the public record on numerous occasions in connection with particular textile trade negotiations during the past year.

The legislation in question continues the duty suspension originally enacted in 1980 as a portion of Public Law 96-609. It provides for duty-free treatment for power driven flat knitting equipment that is more versatile, more efficient and faster producing than has been available previously. Such equipment is frequently computer-controlled, and electronic in mode of operation, and it is essential to enable domestic sweater producers, among others, to meet fast changing fashion requirements on limited production runs. Such characteristics, which are described in greater detail in Annex A of our testimony, are increasingly important as the pressure from low-cost imports remains with us. These machines are not the type manufactured in the United States, and no purpose would be served by the reinstitution of duties on these products at this time. H.R. 1620 calls for a five-year extension of the suspension of these duties through June 30, 1988, and we believe that such continued duty suspension would be entirely appropriate. The legislation in question does not affect the duty on imports from Communist countries, and does not apply to flat bed machines with needle beds not wider than 20 inches. The latter are produced in America by the Lamb Knitting Machine Company and are highly specialized units designed to turn out borders and trims rather than sweater strips, the basic unit of our sweater manufacturing industry.

The flat bed knitting machines with which this legislation is concerned and which are used by the domestic industry are produced primarily in West Germany, Italy, England, Japan, and Switzerland. If these machines were to be subject to duty, thousands of dollars would be added to the cost of each machine, thus making more difficult new investment to further the modernization of mills and the adoption of the newest technology available to the industry. This hindrance to modernization, needless to say, would not help the industry in its apparently unending struggle against imports. The availability of this equipment does enable U.S. manufacturers to respond quickly to the design and fashion needs of their domestic customers, customers who frequently want rapid delivery of late-ordered merchandise in response to sudden style or fashion changes in the market. By having this equipment available, a manufacturer can "turn" quickly and produce goods with very little advance time for patterning and development.

The machinery involved is expensive, ranging from approximately $40,000 for the simpler and more mechanically-operated models to some $75,000 or more for sophisticated, microcomputer-operated machines. Under some conditions, basic equipment can increase these costs to as much as $100,000. The duty that is suspended by this legislation is 6.6 percent ad valorem. It can, therefore, represent a significant cost element to a domestic sweater or knit garment manufacturer. It is estimated that some 7,000 flat bed weft knitting machines are in place in U.S. plants today, and that perhaps 500 machines—including some used equipment—have entered during the past few years. Many of those are new electronic machines whose purchase was assisted by this duty suspension.

In short, Mr. Chairman, the continuation of the duty suspension on power driven flat bed knitting equipment as provided for in H.R. 1620 helps the domestic knitting industry at no cost or harm to any other domestic industry. Domestic machinery manufacturers are not now making this equipment, and, insofar as we are aware, there are no plans for such facilities in the near future. This five year suspension leaves open that possibility and, meanwhile, offers domestic knitwear manufacturers the opportunity and help they need to improve their own capacity to compete with imports. While such assistance does not solve the import problem, it helps our domestic industry to provide better service with more modern equipment. It is a small step, but it is certainly a necessary one for many in the industry.

My own company continues to purchase electronic knitting equipment and I can speak from first hand experience of the benefits of this legislation. Our firm employs approximately 200 people in the Cleveland area, and the modernization of our facilities is important to them as well as to the company. We continue to look for the newest equipment, and consider the duty suspension to be of particular importance to our firm.

On behalf of the Association and our industry, we want to thank you for this opportunity to present our views. I will be happy to attempt to answer any questions that members of the Committee may have.

ANNEX A—DESCRIPTION OF POWER DRIVEN FLAT BED WEFT KNITTING MACHINES SUBJECT TO THE PROVISIONS OF H.R. 1620

To produce sweaters domestic manufacturers use what are known as sweater-strip machines. These include both circular machines (ones that have a cylindrical needlebed and produce goods in tubular form), and those that have a flat or horizontal needlebed and produce open-width fabrics. With the advent of new technical developments, particularly micro-computer operated electronic controls, flat bed weft knitting machines are now becoming the principal vehicle for domestic sweater knitters.

Flat bed weft knitting machines include V-bed flat machines, flat bed purl or links machines and flat bed machines with rotating yarn carriages. These machines are used to produce a variety of knitted garments including sweaters and sweater-shirts, plain and pleated skirts, dresses in a wide range of silhouettes, infants' wear, scarves, gloves, mittens and headwear, among other items.

Today, none of the flat bed weft knitting machines employed by the domestic industry is produced in this country. None has been produced in this country in at least the last decade.

Only one company in this country produces a flat bed machine. But that firm, Lamb Knitting Machine Corp., produces a highly specialized unit with needlebeds no wider than 20 inches that is designed to turn out borders and trims, not sweater-strips. This company has not produced a sweater-strip machine in the past 20 years, and as far as we know, has no intention of doing so in the foreseeable future.

GENERAL IMPORTS—SWEATERS, THREE FIBERS

	Quantity (thousands of dozens)			Value (thousands)		
	1982	1981	1980	1982	1981	1980
Man-made:						
Men's and boys'	1,858	1,500	1,634	$92,601	$75,160	$73,467
Women's, girls', infants	7,671	7,989	7,859	369,304	402,131	362,737
Total	9,529	9,489	9,493	461,905	477,291	436,206
Wool:						
Men's and boys'	1,020	645	506	111,674	74,571	55,054
Women's, girls', infants	1,562	1,673	2,048	156,291	176,321	177,553
Total	2,582	2,318	2,554	267,965	250,892	232,607
Cotton:						
Men's and boys'	127	117	116	12,948	10,992	9,298
Women's, girls', infants	615	357	391	49,760	30,277	28,246
Total	742	474	507	62,708	41,269	37,544
All fibers:						
Men's and boys'	3,005	2,262	2,256	217,223	160,723	137,819
Women's, girls', infants	9,848	10,019	10,298	575,355	608,729	568,538
Total	12,853	12,281	12,554	792,578	769,452	706,357

Source: U.S. Department of Commerce, special TQ reports on general imports, 1983. Prepared by: National Knitwear & Sportswear Association.

DOMESTIC PRODUCTION—SWEATERS

[Thousands of dozens]

Year	Men's	Boys'	Women's, misses and juniors'	Girls' children's and infants	Total
1973	4,424	843	6,975	1,500	13,742
1974	4,624	695	6,309	1,545	13,173

DOMESTIC PRODUCTION—SWEATERS—Continued

[Thousands of dozens]

Year	Men's	Boys'	Women's, misses and juniors'	Girls' children's and infants	Total
1975	3,321	483	6,572	1,287	11,663
1976	3,046	417	6,133	1,082	10,678
1977 [1]	3,283	603	6,567	1,499	11,952
1978 [1]	3,127	606	5,916	1,113	10,762
1979 [1]	2,811	502	4,900	943	9,156
1980 [1]	2,781	288	4,659	935	8,663
1981 [1]	3,157	392	5,763	1,088	10,400
Value of production (millions of dollars)					
1973	246.5	34.6	372.3	46.4	699.8
1974	265.9	29.0	361.2	48.2	704.3
1975	207.7	22.0	393.9	42.8	666.4
1976	222.6	20.6	407.2	41.0	691.4
1977 [1]	243.5	28.6	466.4	58.9	797.4
1978 [1]	241.2	29.2	455.3	48.0	773.7
1979 [1]	245.6	23.1	379.0	49.9	697.6
1980 [1]	288.7	14.6	366.7	47.5	717.5
1981 [1]	343.9	24.7	448.0	60.7	877.3

[1] Data for 1977 through 1981 are not directly comparable to prior years, due to new additions to the Census Survey excluded from prior years.

1983 Source: U.S. Bureau of the Census, Annual Apparel Survey, MA–23E&F.
Prepared by: National Knitwear & Sportswear Association.

U.S. BALANCE OF TRADE TEXTILES, KNIT OUTERWEAR & KNIT FABRICS

[Millions of dollars]

	Exports	Imports [1]	Balance of trade
Textile manufactures:			
1978	2,624.4	7,045.4	−4,421.0
1979	[1] 3,323.5	6,306.7	−2,983.2
1980	[1] 3,874.8	7,199.5	−3,324.7
1981	[1] 3,811.0	8,670.0	−4,859.0
1982	[1] 2,846.9	9,152.9	−6,306.0
Knitted outerwear:			
1978	[2] 152.6	1,813.6	−1,661.0
1979	[2] 229.2	1,607.4	−1,378.2
1980	[2] 303.8	[3] 1,954.6	−1,650.8
1981	[2] 315.1	[3] 2,064.8	−1,749.7
1982	[2] 185.0	[3] 2,199.9	−2,014.9
Knit fabrics:			
1978	[2] 28.8	36.5	−7.7
1979	[2] 55.2	22.7	32.5
1980	[2] 69.3	18.5	50.8
1981	[2] 72.7	15.9	56.8
1982	[2] 55.5	17.6	37.9

[1] Customs value.
[2] FAS value.
[3] Excludes outerwear, T-shirts, and sweatshirts.

Source: U.S. Department of Commerce; International Trade Administration, and Census Bureau; 1983.
Prepared by: National Knitwear & Sportswear Association.

Chairman GIBBONS. I feel sorry for everybody who is out there waiting for us to get through these deliberations, but we will move as fast as we can.

Mr. BODNER. This is a noncontroversial bill to continue a duty suspension which is now in effect, and I will not read the statement. The summary in a nutshell is that this bill enables our in-

dustry, particularly the sweater manufacturers to have access to the new technology that exists in the world at a duty-free rate.

This particular kind of machinery is not manufactured in the United States at this time, and we know of no plans of anyone to go into that particular branch of the knitting equipment business. The machinery in question has enabled manufacturers to have a much quicker turn around time in terms of pattern changes and style changes.

It is an efficient user of yarn and generally is at least a small help in enabling people to meet the extremely heavy competition of low-cost imports that currently afflicts the U.S. market. Buying this machinery has become expensive. These machines are generally computer controlled and run between $40,000 and $85,000 per unit depending upon the nature and type of the controls and needlebeds involved.

There are a substantial number of mills that have purchased equipment made possible by this bill. I think the prevailing view would be that the machine builders have, in fact, passed through the duty savings to the consumers in this case and what price increases there may have been came about as a result of inevitable cost pressures on their part, exchange rate fluctuations and the like.

Right now with the strong dollar this is a particularly good time for people with the required nerve, to make the kinds of investments that we are talking about.

Chairman GIBBONS. All right. Where do we import these from?

Mr. BODNER. These machines are now coming into the United States primarily from West Germany, Switzerland, and Japan.

Chairman GIBBONS. Mr. Pease.

Mr. PEASE. Mr. Chairman, I would like to compliment the witness on his excellent and very persuasive testimony. [Laughter.]

Mr. BODNER. We would like to thank Mr. Pease for introducing the bill which will help the Ohio knitting community as well as a lot of other knitters who need help. Thank you.

Mr. JENKINS. I support the measure and have no questions, Mr. Chairman.

Chairman GIBBONS. You are doing extremely well here today. [Laughter.]

Mr. BODNER. Thank you very much.

Chairman GIBBONS. Our next bill is H.R. 1667 by Mr. Russo. I don't know what the chemical is. I can't pronounce its name.

Mr. PEASE. Mr. Chairman, before these witnesses begin, I want it to be known that I am prepared to stay here as long as necessary so that this panel has a full opportunity to present its views.

Chairman GIBBONS. Mr. Russo, do you want to pronounce the name of this chemical for us? [Laughter.]

Mr. RUSSO. I did not do too well in chemistry when I was in high school.

Chairman GIBBONS. Well, go right ahead sir.

STATEMENT OF FRANK E. BUTLER, PRESIDENT OF THE CHEMICAL DIVISION OF THE SHERWIN-WILLIAMS CO., ACCOMPANIED BY KENNETH H. WILKINSON, DIRECTOR OF INDUSTRY AND GOVERNMENT AFFAIRS; AND RANDOLPH J. STAYIN, COUNSEL

Mr. BUTLER. Good morning, Mr. Chairman. My name is Frank Butler and I am the president of the chemicals division of the Cleveland based Sherwin-Williams Co. With me this morning is Mr. Randy Stayin, with the firm of Taft, Stettinius & Hollister.

Also with me is Mr. Ken Wilkinson, who is the director of our governmental affairs.

I am here for two reasons this morning. One is in support of the suspension of the duty on these two chemicals, MXDA and 1,3-BAC. In addition, we oppose the suspension of duty on para ethyl phenol in the second bill.

With regard to MXDA and 1,3-BAC, I think I should explain possibly what these chemicals are. They are products that are used in the curing of plastic products, primarily urethanes and epoxies, for several purposes. Engineering type plastic products are state of the art and advanced type products, also for coatings, flooring, adhesive sealants and castings. The reason that these products are used is because they impart better physical properties to the end use products, such as improving tensile strength, which is the pulling strength, moisture resistance, and heat resistance. They have better dimensional stability when these products are used. They have better chemical resistance, better durability and better temperature stability.

MXDA and 1,3-BAC can be used to impart those kinds of physical properties to the end use products equally well. 1,3-BAC is somewhat more expensive and also improves the ultraviolet or sunlight resistance to the products.

Now the reason that the Sherwin-Williams Co. is interested in these products is that we manufacture a product called IPN, or isophthalonitrile, which is used or can be used to manufacture both these products through high pressure hydrogenation.

We have an IPN plant in Chicago and we are interested in promoting these products so that we can expand the use of IPN in this country and also so that eventually, assuming that the market is developed, we would be able to put into place manufacturing capabilities for the downstream products MXDA and 1,3-BAC.

There are currently no manufacturers of either of these products in the United States and we get the products from a single manufacturer in Japan. We are attempting to develop the market using those imported, purchased products. The duty suspension for 3 years we are hopeful will allow us time to develop this market so that it will be large enough to begin to enter the manufacturing ourselves within a time frame of 3 to 5 years, thus expanding our IPN productive capacity and entering the use of higher value chemical products.

The products are state of the art and they allow for development of the next generation downstream products in the areas that I discussed. However, there are some competitive products that, impact, at least, the same general functionality but not the advanced functionality. For that reason, there is a price sensitivity to the devel-

opment of this market. Since the tariff on these products is currently 1.5 cents per pound plus 18.8 percent ad valorum on MXDA and 1,3-BAC, having one of 1.7 cents per pound plus 16.8 percent ad valorum this extra cost is reflected in the pricing and does threaten to retard the growth.

We believe that suspension of this tariff for 3 years would be beneficial to the United States with regard to the development of downstream products and eventually the creation of the manufacturing capability of the higher value products in this country and therefore, we strongly support the enactment of the suspension, as stated in H.R. 1667.

[The prepared statement follows:]

STATEMENT OF FRANK E. BUTLER, PRESIDENT OF THE SHERWIN-WILLIAMS CHEMICAL DIVISION

Mr. Chairman and Members of the Subcommittee, my name is Frank E. Butler. I am President of the Chemical Division of the Sherwin-Williams Company. Accompanying me here today are Kenneth H. Wilkinson, Director of Industry and Government Affairs for Sherwin-Williams and our counsel, Robert Taft, Jr. and Randloph J. Stayin, of Taft, Stettinius & Hollister. We would like to thank you for giving us the opportunity to appear before you today to express our support of H.R. 1667 and our opposition to H.R. 2258.

We support H.R. 1667, a bill introduced by Congressman Russo to suspend the duty on MXDA (Meta-Xylene Diamine) and 1,3,-BAC (1,3-Bis[aminomethyl]-cyclohexane) until the close of June 30, 1986. Neither of these chemicals are manufactured in the United States at this time. These chemicals are used to produce epoxy curing agents, engineering type nylons, tetrafunctional epoxies, and diisocyanates. These types of products are used in:

Aerospace composites—as a part of the matrix (or glue) that holds the carbon fibers together.

Engineering type nylons—as a part of a nylon polymer used for molding parts (gears, fan blades, electrical connectors, housings, etc.) where high tensile strength, high resistance to moisture and heat and high dimensional stability are required.

Epoxy curing agents—as the hardener portion of an epoxy system requiring good chemical resistance, good moisture resistance, good durability and temperature stability.

Urethane systems—as the hardener in the diisocyanate portion of high performance urethane systems used in flooring systems, adhesives, coatings, sealants and casting compounds.

The advantage in using 1,3-BAC in some applications is its slightly higher resistance to ultraviolet degradation. Because of the extra cost in manufacturing 1,3-BAC, its use is more restricted to areas requiring very excellent ultraviolent resistance.

Sherwin-Williams currently produces the product IPN (Isophthalonittrile) via the ammoxidation of Meta-Xylene. MXDA is then produced via hydrogenation of IPN. The hydrogenation reaction requires facilities that will handle reaction pressures up to 4,000 psi and enable continuous processing. We do not now have such facilities available nor are there such facilities available for this reaction in any other U.S. based company which could perform this conversion for us on a contract basis. Therefore, we must rely upon a foreign source to supply MXDA and 1,3-BAC for our market development. It is unlikely that either of these chemicals will be manufactured in this country within the next few years because the domestic market demand is, as yet, too small to justify the cost of new production facilities.

Suspension of the duty on MXDA and 1,3-BAC for three years would allow Sherwin-Williams the opportunity to develop new markets for these products in the United States. If the market development efforts are successful, we plan to construct facilities for an estimated cost of $10–12 million which would perform the chemical conversion step now being carried out in Japan. This plant will provide forty new jobs. It is estimated that the market development activity will take approximately three to five years with plant construction to begin some time during that period. MXDA and 1,3-BAC are imprtant keys for Sherwin-Williams' ability to vertically integrate to higher value chemicals and to open up many new market areas for us. The products being developed and currently made from these chemi-

cals are "state of the art" and "next generation performance level" within their industries. However, each of these areas is price sensitive and the duty suspension will help us develop the domestic and international markets more quickly so that we can justify manufacturing facilities in the United States. The end result of this effort could make a United States chemical manufacturer a direct competitor with the Japanese for the marketing of these products, not only within this country, but in the international market. This would benefit our balance of trade with Japan and expand U.S. trading opportunities throughout the world.

The tariff classification for these chemicals is provided for in Item 404.88 for MXDA and Item 407.05 for 1,3-BAC. The duty paid on imports of MXDA is based on a duty rate of 1.5 cents per pound plus 18.8 percent ad valorem, for an effective duty of 20 percent of the total cost of the material, excluding freight. The duty paid on imports of 1,3-BAC is based on a duty rate of 1.7 cents per pound plus 16.8 percent ad valorem, for an effective duty of 17.7 percent of the total cost of the material, excluding freight. Although the total dollars paid to date are relatively small, this duty represents a significant extra cost. This economic penalty threatens to retard the growth and demand for these products and thereby reduces the probability of eventual production of MXDA and 1,3-BAC in the United States.

The temporary suspension of the duty until June 30, 1986 provided for in H.R. 1667 will allow demand for MXDA and 1,3-BAC to grow from its present modest level to a point where domestic production can be justified. The Administration appears to agree and has indicated that it has no objection to passage of this bill during its testimony before this Subcommittee on April 27, 1983. We strongly support the enactment of H.R. 1667 as a means of assuring the eventual addition of these valuable chemicals to the domestic industrial base.

H.R. 2258 is a bill introduced by Congressman Mollohan which will suspend the duty on para ethyl phenol (PEP) and four other benzoid chemicals until the close of June 30, 1986. As the sole producer of PEP in the United States, we oppose H.R. 2258 as it applies to PEP only.

PEP is used to make butylated hydroxy ethyl benzene which is used in plastics, primarily polyolefins. It is also used in 2,2-methylene BIS (4-ethyl-6-tert-butyl phenyl) which is used in rubber. In both cases it is used as an antioxidant.

Aside from Sherwin-Williams, there are only two other manufacturers of PEP in the world, one in England and one in Japan. Our domestic production record for PEP at our Chicago plant is as follows: 767,535 pounds in 1976; 1,158,666 pounds in 1977; 994,486 pounds in 1978; and 1,014,640 pounds in 1979. The size of our orders from customers in a single year have ranged from 25 pounds to 29,920 pounds. We produce PEP in sufficient quantities to meet our current orders plus sufficient quantities to be inventoried to meet anticipated future demand. Due to the recessionary economy and low demand for PEP, our last production took place in December, 1979. We have been selling off our inventory since then. We currently do not have any PEP in our inventory and therefore anticipate the need to produce more PEP as new orders develop. Had the demand for PEP been greater and had we been able to sell off our inventory prior to now, we would be producing PEP at this time.

If orders for PEP do not come through in 1983, the plant will sit idle for two months this year resulting in the layoff of 25 employees. The cost of the other chemicals produced in that plant will have to increase in order to offset the cost of the fixed overhead of that plant. Passage of H.R. 2258 as it applies to PEP will guarantee the closing of that plant for at least two months this year.

Our two foreign competitors compete aggressively in the U.S. market and already have the lowest priced products in our market notwithstanding the current tariff imposed on PEP. The need for tariff relief simply does not exist. If this duty suspension is granted, it will make it economically impossible for Sherwin-Williams to continue to produce PEP in the United States. As a result of the last round of multilateral trade negotiations, the tariff on PEP has been and will continue to be substantially reduced. In 1980 the tariff was .3 cents per pound plus 25 percent ad valorem. It is now 19.3 percent ad valorem and will be reduced to 11 percent by 1987. The tariff on PEP will have declined by more than one-half as a result of the phased reductions by 1987. We are currently researching methods to improve our process and to make ourselves more competitive with the two foreign producers. The phased reductions currently in effect will give us the much needed time to improve our ability to compete.

If the duty on PEP is suspended, the two foreign producers will be the beneficiaries and the domestic users of that product will be the ultimate losers. The elimination of Sherwin-Williams from competition in the domestic market will leave our U.S. customers at the mercy of increased prices from the two foreign producers of PEP. The closing of our facility will increase the demand for PEP produced abroad

which will inevitably lead to higher prices being charged to U.S. based users of that product.

For these reasons, Sherwin-Williams opposes the suspension of the duty on para ethyl phenol as proposed in H.R. 2258. Our investment in plant and technology will be lost, we will not be able to continue manufacture of PEP, and the domestic users of PEP will be faced with price increases from abroad. Since our two foreign competitors are already selling below our prices, there is no need for further tariff relief. The current tariff is necessary in order to preserve the only domestic producer of PEP and to give us the needed time and opportunity to improve our processes so that we can compete effectively both in the domestic market and abroad.

Chairman GIBBONS. Mr. Russo.

Mr. RUSSO. Mr. Chairman, as you can well understand, it was very easy to pronounce those chemicals. MXDA is a very simple description of it. [Laughter.]

I think they made an extremely strong case for suspending the duty and I certainly am in strong support of it. Otherwise, I would not have introduced the legislation.

Chairman GIBBONS. Mr. Jenkins.

Mr. JENKINS. How much money is involved?

Mr. BUTLER. Well, at this point, the market for these products is relatively small. They sell for around $2 a pound and last year there were 30,000 pounds. So, we are talking about $60,000 or $70,000 in product today. That, obviously, would have to multiply by a factor of 20 or so in order to begin to get into the range of where market development creates a need for manufacturing. This is a situation of futures with regard to this product.

Mr. JENKINS. Thank you very much.

Chairman GIBBONS. Mr. Pease.

Mr. PEASE. No questions, Mr. Chairman.

Chairman GIBBONS. Thank you, very much. Let us go next to H.R. 2258 by Mr. Mollohan. This bill will suspend the duty on certain benzoid chemicals until the close of business on June 30, 1986. We have the same set of witnesses. Please proceed.

Mr. BUTLER. We are here because we are concerned with one of the items on the bill H.R. 2258 that who would suspend the duty on para ethyl phenol and four other chemicals. We are only concerned about the para ethyl phenol.

Para ethyl phenol, or PEP, has two primary uses. It is used to make antioxidants for the plastics and rubber industry. It is also used as an intermediate for other chemical derivatives, such as specialty pharmaceuticals. There are two other manufacturers besides Sherwin-Williams, in the world, and that is one in England and one in Japan. All of these manufacturers, including the Sherwin-Williams Co. do not use dedicated or exclusive production facilities in which to manufacture the para ethyl phenol. It is a campaign product.

During the years of 1976 through 1979 the Sherwin-Williams Co. manufactured in the neighborhood of 1 million pounds of para ethyl phenol per year. Since 1979 we have not manufactured any para ethyl phenol for three reasons.

One, the recessionary economy has created a low demand in the plastics and rubber industry and has reduced the requirements for the antioxidents products.

Second, the U.S. price is considerably lower and it is not at this time economical for us to manufacture the product and sell it in

the United States. The foreign price has brought this down and I think that is a factor attributable to the change in the currency exchange rates.

And also, we have had some inventory from our last manufacturing runs. Foreign producers already have the lowest priced product in the market, even with current level of tariffs and if the duty is suspended, the Sherwin-Williams Co. will probably not ever be in a position to produce para ethyl phenol again and the price of para ethyl phenol in the United States will probably not be reduced further. I cannot see that the foreign producers would have any reason to lower their price any further if the tariff is removed.

And third, of course, our Government will lose the tariff revenues as a result of that. In my estimation, the only beneficiary of the tariff suspension in this case will be the foreign producers. The customers will not benefit from a lower price and our Government will lose the tariff revenues and the foreign producers will contribute more to their costs.

The domestic consumers cannot benefit in the short term and if the situation continues such that the Sherwin-Williams Co. is unable to plan long term to be in this business, then eventually in the long term the prices will be probably increased.

So, it is for these reasons that Sherwin-Williams opposes the suspension of duty on PEP. Our investment in the plant and technology, obviously, is at least partially lost. We probably would not again produce PEP and we are currently the only potential domestic producer. Short-term prices will not go down. Long-term prices will surely go up. The United States will lose the tariff revenue and the foreign producers will be the only beneficiary.

Chairman GIBBONS. As I understand your testimony, you are not opposed to all of the items in this bill, you are only opposed to a portion of it. Is that correct?

Mr. BUTLER. That is correct.

Chairman GIBBONS. Have you made any effort to work it out? I realize that we are in a very technical field here and I noticed that the administration was not opposed to Mr. Mollohan's bill. It may be that Mr. Mollohan's bill, if you all can get together, can be modified in such a way that it would not adversely impact you. Have you made any attempt to do that?

Mr. STAYIN. We believe the administration really would like to take a neutral position.

Chairman GIBBONS. They had every opportunity and they did not.

Mr. STAYIN. They had some information which we have corrected since then which was erroneous and I think that may have led them to take that position.

Chairman GIBBONS. How about Mr. Mollohan? Have you been over there to explain it to him?

Mr. STAYIN. We have not, but we have talked to the company which would benefit by that bill. We will be glad to pursue it with him, with Mr. Mollohan.

Chairman GIBBONS. It may be that he is not fully aware of all of the technical ramifications of the bill. As I said, we are dealing in a very complex area and we like to work these things out whenever we can. Are there any questions?

[No response.]

Chairman GIBBONS. Thank you very much.

Mr. BUTLER. Thank you.

Chairman GIBBONS. All right. Next, we take up Mr. Jenkins' bill, H.R. 1888, concerning feathers and down.

STATEMENT OF JOHN SILVERTHORNE, CHAIRMAN, PILLOWTEX CORP., DALLAS, TEX., ON BEHALF OF THE AMERICAN APPAREL MANUFACTURERS ASSOCIATION, ACCOMPANIED BY G. STEWART BOSWELL, DIRECTOR, GOVERNMENT RELATIONS, AND FRED SHIPPEE, DIRECTOR, TECHNICAL SERVICES

Mr. SILVERTHORNE. Mr. Chairman, my name is John Silverthorne. I am chairman of Pillowtex Corp. of Dallas, Tex. My appearance today is as chairman of the American Apparel Manufacturers Association's Down Apparel Division. The AAMA supports H. R. 1888, introduced by Mr. Jenkins, which would continue to suspend the duty on crude feathers and down for an additional 5 years to June 30, 1989.

With me, on my left, is Mr. Fred Shippee. On my right, Mr. Stewart Boswell, staff of the American Apparel Manufacturers Association.

My statement is on file and I would like to summarize, if I may.

Chairman GIBBONS. All right. We will put it in the record. Go right ahead.

[The prepared statement follows:]

STATEMENT OF JOHN SILVERTHORNE, ON BEHALF OF THE AMERICAN APPAREL MANUFACTURERS ASSOCIATION

Mr. Chairman, my name is John Silverthorne. I am Chairman of Pillowtex Corporation of Dallas, Texas. My appearance today is as chairman of the American Apparel Manufacturers Association's Down Apparel Division. AAMA supports H.R. 1888 introduced by Mr. Jenkins which would suspend the duty on crude feathers and down for an additional five years to June 30, 1989.

AAMA is the central trade association for the American apparel industry representing about two-thirds of domestic apparel production capacity. Its membership is nationwide and includes all items of apparel production. It's down apparel division counts among its specific membership manufacturers of down apparel products and their suppliers, the processors of raw down and feathers. It represents about 81 percent of domestic down apparel production.

The domestic down apparel industry consists of about 60 firms, most of which are small companies employing less than 250 workers. They are geographically scattered throughout the United States. Domestic production of down parkas, jackets, and vests is averaging about 3.0 million units annually with imports accounting for another 5 million units. Thus domestic manufacturers are supplying only about a 40 percent share of the market.

The amount of domestically produced raw down and feathers continues to be small. About three-fourths of the more than 20 million pounds normally required to meet American manufactured and processing needs must be obtained from foreign sources where waterfowl food is more popular than in the United States.

A continuation of the duty suspension in this case would lower the costs to domestic manufacturers of down filled apparel and other articles and help their competitive position with respect to imports, particularly imports of down costs, jackets, and vests. The first duty suspension was passed by Congress in 1974 and the second in 1980. H.R. 1888 would simply continue the existing duty suspension for an additional five years.

Mr. Chairman, this bill is important to our industry and we would appreciate its favorable consideration by the Subcommittee. Thank you for giving me the opportunity to present this statement.

Mr. SILVERTHORNE. My summary is that the United States continues to be a consumer nation, unable to supply its own needs in feathers and down. Only about 25 percent are produced in the United States. We do not eat ducks and geese to the extent necessary to supply more. Even with the duty suspended as it has been since the early 1970's, we produce only about 40 percent of our own market. Imports account for 60 percent in down apparel.

On that basis, I submit that this bill is important to our industry and we would appreciate its favorable consideration by the subcommittee.

Thank you for giving me this opportunity to present this statement.

Chairman GIBBONS. Yes, sir. Mr. Jenkins.

Mr. JENKINS. Thank you, Mr. Chairman, and thank you for your testimony in support of this measure. I do not think there is any opposition from the administration, but I understand there could be some concern of the Department of Agriculture. Do you know anything about that?

Mr. BOSWELL. I am Stewart Boswell. Mr. Jenkins, we understand that a company in Wisconsin, we do not know the company, has been to the Department of Agriculture to suggest that the duty revert to its pre-1974 level because that company wanted to retaliate against France for its treatment of the company's exports to France. Now, that is all that we know of, or have heard of, in the way of opposition so this bill. We think that is going to be resolved.

Mr. JENKINS. Thank you.

Chairman GIBBONS. They wanted to retaliate against France. That is interesting. Why?

Mr. BOSWELL. Well, apparently, and I do not know the details, Mr. Chairman, this company tried to export either meat or down and feathers to the French and the French interposed some sort of block. Now that aggravated the company to some extent. It would like to see this bill used as a lever to retaliate against them because we do reimport certain processed down from countries like France.

Chairman GIBBONS. All right. Fine. Thank you very much.

[The following letter was subsequently received:]

COMMITTEE ON
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MAY 3 1983
WAYS AND MEANS

May 3, 1983

Hon. Sam Gibbons, Chairman
Subcommittee on Trade
House Committee on Ways and Means
1102 Longworth House Office Bldg.
Washington, D.C. 20515

Dear Mr. Chairman:

The American Apparel Manufacturers Association (AAMA) wishes to record its views on several of the tariff and trade bills which the Subcommittee is considering and which were the subject of hearings on April 27 and May 5, 1983. AAMA is the central trade association of the U.S. apparel industry representing some two-thirds of domestic manufacturing capacity.

1/ We oppose H.R. 1226 which would reduce the duty on certain disposable surgical drapes and gowns as several of our member companies would be adversely affected by this bill. These articles are subject to duty reductions negotiated during the Multinational Trade Negotiations of 1979, and we believe that it is bad precedent to legislate duty reductions previously arrived at during the course of international negotiations.

2/ We support S. 1583 to provide the duty free entry of warp knitting machines. These machines are not produced in the United States and are required to help the American knitting industry, heavily impacted by foreign imports, meet its low-wage foreign competition.

3/ We support H.R. 1620 to extend the duty suspension on flat knitting machines for the same reason.

4/ We support H.R. 1910 to clarify the classification of coated textile fabrics. Because of a mere coating of plastic or rubber, these fabrics, which clearly are textile products, escape the coverage of the Multifiber Arrangement and enter this country at considerably

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703/524-1864

lower duties. They are of chief weight fabric and should be so classified. As matters now stand, the existing classification constitutes a loophole in our government's apparel and textile trade program which should be closed.

5/ We support H.R. 1938 to clarify for duty purposes the distinction between dress and work gloves. Here again is an effort by foreign suppliers to circumvent U.S. custom law and to increase their shipments of work gloves to this country -- an item which currently is one of the most heavily penetrated by imports. By adding a small strip to a glove, foreign manufacturers are able to change its classification from work to dress glove and take advantage of a lower duty for the latter. This bill would correct this loophole.

We would appreciate these comments being included in the hearing record on tnese bills.

Sincerely,

G. Stewart Boswell
Director of Government Relations

GSB:bal

Mr. SILVERTHORNE. Thank you, Mr. Chairman.

Chairman GIBBONS. We now have Mr. Howard's bill, H.R. 1890 a bill to suspend the duty on synthetic rutile. Kerr-McGee and the titanium dioxide industry group are here to testify concerning the bill. Are you all on the same side?

Mr. SCHIESZ. No.

Chairman GIBBONS. Why don't you both come on up at the same time. We will let you sit up here together.

Mr. SCHIESZ. We are not enemies.

Chairman GIBBONS. I understand. It is just that there is a difference of opinion. OK. Go right ahead. First we will hear from the Kerr-McGee Corp.

STATEMENT OF DONALD F. SCHIESZ, DIRECTOR OF MANUFACTURING, KERR-McGEE CHEMICAL CORP.

Mr. SCHIESZ. Mr. Chairman and members of the subcommittee, I am Don Schiesz, director of manufacturing for Kerr-McGee Chemical Corp. I would like to submit my formal testimony at this time and I understand also, that Congressman Edwards, Jack Edwards has submitted his to the Chairman and staff for inclusion in the record.

Chairman GIBBONS. Yes, sir. We received that and we will include it in the record.

Mr. SCHIESZ. I will not read the whole formal testimony at this time, but I would like to summarize it. I am here today to testify in opposition to H.R. 1890, which would suspend the duty on the import of synthetic rutile from June 30, 1983 through June 30, 1987.

In addition, this bill would retroactively apply such suspension to synthetic rutile entered or withdrawn from warehouse for consumption after June 30, 1982. As the chairman and many members of this subcommittee will recall, last year this subcommittee refused to forward similar legislation to the full committee. The committee is well aware of the use of synthetic rutile as a feedstock for making titanium dioxide pigments and titanium and metal alloys, which are essential in the construction of defense related material.

Also, from previous testimony Kerr-McGee has given before this subcommittee, you are familiar with the fact that Kerr-McGee is the only producer of synthetic rutile in the United States, and its Mobile facility is the largest synthetic rutile plant in the world, with the capability of producing 125,000 tons per year. Of this annual capacity, approximately 65,000 tons are used for Kerr-McGee's titanium dioxide plant. There are four reasons that Kerr-McGee opposes the enactment of this bill.

First, the reasons for the previous suspensions of import duties of synthetic rutile no longer exist. The original suspensions of the duty on synthetic rutiles came about because of the worldwide shortage of rutile ore and the absence of domestic production.

Today, there is an overabundance of rutile and rutile substitutes, with world capacity of approximately 900,000 tons and a present worldwide demand of only 600,000 tons. As previously stated, there continues to be a substantial amount of domestic production capa-

bility of synthetic rutile that can be used by domestic manufacturers.

From a strategic standpoint, the United States cannot become totally reliant on potentially unstable and certainly distant foreign resources which are used in furtherance of this country's national defense.

Third, there would be virtually no cost impact on the consumer by continuing the set duty on synthetic rutile and fourth, the excess domestic production capability of synthetic rutile can meet virtually all of the domestic requirements at competitive prices and contractual terms.

During the course of considering this legislation, the representatives of other domestic titanium dioxide manufacturers have set forth numerous contentions why the tariff on synthetic rutile should again be suspended. I would like to briefly address some of these arguments.

It is argued that the U.S. titanium pigments industry is experiencing economic hardship in part due to the increased cost of imported synthetic rutile. The facts show that synthetic rutile is just one of several feed stocks which may be used to make titanium dioxide. Others include natural rutile, slag, leucoxeme, and ilmenite.

During 1982, synthetic rutile imports amounted to just over 24,000 tons, which is enough to produce 20,000 tons of titanium dioxide. At the same time, the total U.S. production of titanium dioxide in 1982 was about 635,000 tons. Thus, imported synthetic rutile accounts for only a small part of the U.S. titanium pigment production. The argument that the import duty on synthetic rutile is the cause of the industry's recent economic hardship cannot be supported by the facts.

The industry group maintains that a tariff on imported synthetic rutile will result in the continued increase in imports of titanium pigments to the detriment of domestic producers. Again, the facts show that due to a considerable worldwide oversupply of rutile and rutile substitutes, the price of synthetic rutile has decreased. Evidence of this is seen from the Bureau of Census data, which shows that the average customs value of synthetic rutile imported for consumption in 1982 was $143 per ton, as compared to $272 per ton in 1981. Based upon the average 1982 customs value, the 6.3 percent duty amounts to only $9 per ton. Thus, even with the projected duty, the cost of imported synthetic rutile is down substantially. Therefore, a tariff on synthetic rutile has no bearing on the amount of titanium pigments which are imported into the United States.

It is also argued that a duty on synthetic rutile would make the U.S. titanium dioxide producers dependent upon a competitor. Once again, the facts do not support this. As previously noted, synthetic rutile is only one of several feed stocks used for making titanium dioxide. There is an abundant supply of alternates available, such as natural rutile and slag. It should be noted that there are numerous instances where purchasing from competitors is a generally accepted practice. Interestingly enough, the two largest titanium dioxide pigment manufacturers supply titanium dioxide to the paint industry and also compete in the manufacture of paint. Kerr-

McGee Chemical Corp. stands ready and able to enter into bonding, long-term commitments to supply synthetic rutile at competitive prices to domestic titanium dioxide manufacturers.

Finally, it is contended that the duty-free treatment for synthetic rutile would not adversely affect domestic production. This is not correct. As previously noted, the 1982 customs value per ton on synthetic rutile decreased substantially to approximately $143 per ton. At such low pricing levels, a suspension of the import duty would definitely have an adverse impact on domestic production of synthetic rutile. The 6.3 percent duty is insignificant insofar as the impact on the consumer is concerned.

In conclusion, I would note that during the early 1970's the Government foresaw a necessity to create a domestic synthetic rutile industry. It therefore provided a tariff on imported synthetic rutile.

When Kerr-McGee initiated the plans to build a synthetic rutile facility in Mobile, Ala., one of the factors it considered was the existence of the ad valorem duty on synthetic rutile in the tariff schedules. Granted, when there was no domestic production and a worldwide supply shortage of synthetic rutile existed, the duty was suspended. However, such is not the case today. In 1983, there is an oversupply of this ore and Kerr-McGee's facility is fully capable of producing in excess of 50,000 tons of synthetic rutile over its own needs.

In view of the fact that imports of synthetic rutile for 1981 and 1982 were approximately 41,000 tons and 24,000 tons respectively, suspension of the duty is not warranted. Rather, continued support must be directed toward the domestic industry that provides an essential source of defense related raw material and enhances the national security. If, at a later date, the worldwide supply of rutile and rutile substitutes should vary from the forecasts, or other reasons so justify, then the question of suspending the duty on imports of synthetic rutile can be reexamined.

In view of the foregoing, Kerr-McGee believes that H.R. 1890 should not be reported out by this subcommittee.

Thank you for your time.

[The prepared statement follows:]

STATEMENT OF DONALD F. SCHIESZ, DIRECTOR OF MANUFACTURING, KERR-MCGEE CHEMICAL CORP.

Mr. Chairman and members of the Subcommittee, I am Donald F. Schiesz, Director of Manufacturing, Kerr-McGee Chemical Corporation. I am here today to testify in opposition to H.R. 1890 which would suspend the duty on the import of synthetic rutile from June 30, 1983 through June 30, 1987. In addition, H.R. 1890 would retroactively apply such suspension to synthetic rutile "entered, or withdrawn from warehouse for consumption after June 30, 1982." As the Chairman, and many of the members of this Subcommittee, will recall, last year this Subcommittee refused to forward similar legislation to the full Committee.

I.—BACKGROUND

Synthetic rutile is ilmenite ore, upgraded to increase its titanium dioxide content from below 60 percent to in excess of 90 percent. It is one of the basic feed materials used to make titanium dioxide pigment, the primary white material used in the manufacture of paints, industrial coatings and paints, paper, rubber, fabrics, plastics and ink. It is also a critical component used to manufacture titanium metal and alloys which are instrumental in the construction of defense-related materials.

As background, in 1976 Kerr-McGee Chemical Corporation (Kerr-McGee) initiated production of synthetic rutile at its facility in Mobile, Alabama. While this facility

was designed for a capacity of 110,000 short tons per year (the largest synthetic rutile plant in the world), environmental and operational problems severely impeded initial production and as a result this plant was deactivated in 1978. Having resolved both problems, the facility was reactivated in February, 1980 and is currently producing about 70,000 tons of synthetic rutile per year. This plant is capable of (and has been operated at) a production level ranging from 110,000 to 125,000 tons annually. Approximately 65,000 tons of the yearly production of synthetic rutile is used as feed material for Kerr-McGee's titanium dioxide (TiO2) plant, located in Hamilton, Mississippi. Only a relatively small portion has been sold to domestic users.

There are four major reasons that Kerr-McGee opposes the enactment of H.R. 1890.

(1) The reasons for the previous suspensions of import duties on synthetic rutile no longer exist.

(2) From a strategic standpoint, the United States cannot become totally reliant on potentially unstable (and certainly distant) foreign resources which are used in furtherance of this country's national defense.

(3) There would be virtually no cost impact on the consumer by continuing the set duty on synthetic rutile.

(4) The excess domestic production capability of synthetic rutile can meet virtually all of the domestic requirements.

Congress originally suspended the duty on synthetic rutile in 1974 for three years. At that time there was no domestic production of rutile substitute. When the duty was suspended for an additional two years, in 1977, Kerr-McGee's facility (as previously noted) was not producing at its anticipated capacity, and was deactivated a year later. Finally, the third and most recent extension of the duty suspension occurred in 1979, a period when operations at Kerr-McGee's facility were still shutdown in order to remedy environmental and operational problems. Today, as this Subcommittee considers H.R. 1890, we have a fully operational domestic synthetic rutile facility, capable of meeting domestic user requirements from the standpoint of quality, price and contractual terms.

An additional reason for justifying the previous three suspensions of import duties on synthetic rutile was due to a worldwide shortage of rutile ore. Once again, it is noted that the current market conditions for rutile and rutile substitutes have changed significantly from the past. Four new sources of rutile and rutile substitutes have entered the market for a combined world capacity of approximately 900,000 tons. Present worldwide demand is only 600,000 tons, with a projected increase to approximately 650,000 tons by 1985.

As can be seen from the foregoing, the prior justification for suspension of the duty on synthetic rutile does not exist. Not only is there a worldwide surplus of ore supply, which will continue to exist into the future, there is also a substantial amount of domestic production capability that can be utilized by domestic manufacturing.

II.—STRATEGICALLY, THE UNITED STATES SHOULD NOT BECOME DEPENDENT ON FOREIGN SOURCES OF CRITICAL MATERIALS

Due to the strategic importance of titanium metals for defense applications, there has been considerable concern over U.S. dependence on imported rutile, the basic ore source for titanium metal. Pursuant to the Defense Production Act, the United States has supported industry efforts in developing a defense-related synthetic rutile industry. Suspension of the tariff would discourage, if not stop, the further development of domestic rutile substitutes, and the government's efforts and expenses for this program would be for naught. The present administration is on record as opposing this country's growing dependence on foreign strategic resources, including titanium. The suspension of synthetic rutile import duties could have potential damaging effects on the domestic production of titanium metals should it become necessary for Kerr-McGee to permanently reduce or cease output from its synthetic rutile plant.

III.—COST IMPACT ON CONSUMERS WILL BE DE MINIMUS, AT MOST, IF DUTY IS CONTINUED

The cost impact of a 6.3 percent synthetic rutile tariff (decreasing to 5 percent by 1987) on imports would be, at most, de minimus. During 1982, just over 24,000 tons of synthetic rutile were imported for consumption into the U.S. the duty on this annual volume is approximately $220,000. While it is unlikely, judging from current market conditions, for this additional cost to be passed on to the synthetic rutile consumer, even if it were, the added cost would be insignificant—i.e. less than .03

percent of the price of Ti02 pigment and less than .3 percent of the cost of titanium metal. Thus, the argument that reinstituting a tariff on synthetic rutile would be detrimental to the user and ultimately the consumer is without merit.

IV.—DOMESTIC PRODUCTION OF SYNTHETIC RUTILE CANNOT BE SOLD COMPETITIVELY IF THE SUSPENSION OF THE IMPORT DUTY IS REIMPOSED

In the past, it has been argued that without an import duty Kerr-McGee could still sell to private users the 50,000 tons not required for its Ti02 plant. This is simply not the case. In fact, in an attempt to justify increasing its production of synthetic rutile, Kerr-McGee Chemical explored the possibility of selling this production to Japan. This attempt was dropped after discovering that Japan imposes an 8 percent import duty on synthetic rutile. According to the Bureau of Census figures, 24,190 tons of snythetic rutile were imported into the United States during 1982. Thus, with excess production capability of over 50,000 tons, it can be seen that Kerr-McGee is in a position to supply a substantial amount of the domestic demand for synthetic rutile. Kerr-McGee is indeed prepared to enter into multi-year contracts at competitive prices for the sale of its synthetic rutile, which from a quality standpoint is equal to, or better, than that which is imported.

V.—ARGUMENTS PRESENTED BY TITANIUM DIOXIDE INDUSTRY GROUP

During the course of considering this legislation, a group of titanium dioxide manufacturers have set forth numerous contentions regarding why the tariff on synthetic rutile should again be suspended through June 30, 1987. These contentions and Kerr-McGee's position thereon are set forth below:

A. The U.S. titanium pigments industry is experiencing severe economic hardship, in part due to the increased cost of imported synthetic rutile.

Response. The facts show that synthetic rutile is just one of several feedstocks which may be used to make titanium dixode. Others include natural rutile, slag, leucoxene and ilmenite. As previously noted, 1982 synthetic rutile imports amounted to just over 24,000 tons, enough to produce approximately 20,000 tons of titanium dioxide pigment. Total U.S. production of titanium dioxide pigment in 1982 was about 635,000 tons. Thus, imported synthetic rutile accounts for a small part of the U.S. titanium pigment production. The argument that the import duty on synthetic rutile is the cause of the industry's recent economic hardship cannot be supported by the facts.

B. The tariff on imported synthetic rutile will result in the continued increase in imports of titanium pigments, to the detriment of domestic producers.

Response. The facts show that due to a considerable worldwide oversupply of rutile and rutile substitutes, the price of synthetic rutile has decreased. Evidence of this is seen from the Bureau of Census data which shows the average customs value of synthetic rutile imported for consumption in 1982 was $143 per ton as compared to $272 per ton in 1981. Based upon the average 1982 customs value, the 6.3 percent ad valorem duty amounts to only $9 per ton. Thus, even with the projected duty, the cost of imported synthetic rutile is down substantially. Therefore, a tariff on synthetic rutile has no bearing on the amount of titanium pigments which are imported into the U.S.

C. A duty on synthetic rutiler would make U.S. titanium dioxide producers dependent on a competitor.

Response. Once again, the facts do not support this contention. As previously noted, synthetic rutile is only one of several feedstocks used for making titanium dioxide. There is an abundant supply of alternates available, such as natural rutile and slag. It should be noted that there are numerous instances where purchasing from competitors is a generally accepted practice. Interestingly enough, the two largest titanium dioxide pigment manufacturers supply titanium dioxide to the paint industry and also compete in the manufacture of paint. Once again, Kerr-McGee Chemical Corporation stands ready and able to enter into binding long-term commitments to supply synthetic rutile at competitive prices to domestic titanium dioxide manufacturers.

D. Without duty relief on synthetic rutile U.S. pigment producers would be "forced to consider joining the growing movement in the United States favoring protectionist legislation."

Response. The question of duties on titanium dioxide imports is a totally unrelated issue from H.R. 1890. Imports of titanium dioxide have been increasing due to the worldwide economic recession and the strength of the U.S. dollar.

E. Duty-free treatment for synthetic rutile would not adversely affect domestic production.

Response. This is not correct. As stated above, the 1982 customs value per ton on imported synthetic rutile decreased substantially to approximately $143. At such low pricing levels, a suspension of the import duty would definitely have an adverse impact on domestic production of synthetic rutile. As previously seen, the 6.3 percent duty is insignificant insofar as the impact on the consumer is concerned.

F. Since natural rutile is duty free under the tariff schedules, synthetic rutile should receive like treatment since the two are interchangeable.

Response. There is no inconsistency present as the tariff on synthetic rutile is perfectly consistent with duties on other chemically beneficiated ores.

CONCLUSION

During the early 1970's the government foresaw a necessity to create a domestic synthetic rutile industry. It therefore provided a tariff on imported synthetic rutile. When Kerr-McGee initiated plans to build a synthetic rutile facility in Mobile, Alabama, one of the factors it considered was the existence of the ad valorem duty on synthetic rutile in the tariff schedules. Granted, when there was no domestic production and a worldwide supply shortage of synthetic rutile existed, the duty was suspended; such is not the case today, however. In 1983, there is an over-supply of this ore and Kerr-McGee's facility is fully capable of producing in excess of 50,000 tons of synthetic rutile over its own needs.

In view of the fact that imports of synthetic rutile for 1981 and 1982 were approximately 41,000 tons and 24,000 tons respectively, suspension of the duty is not warranted. Rather, continued support must be directed towards a domestic industry that provides an essential source of defense related raw material and enhances the national security. If, at a later date, the worldwide supply of rutile/rutile substitute should vary from forecasts, or other reasons so justify, then the question of suspending the duty on imports of synthetic rutile can be re-examined.

In view of the foregoing, Kerr-McGee believes H.R. 1890 should not be reported out by this Subcommittee.

I will be pleased to address any questions you might have.

Chairman GIBBONS. Thank you. Next, we will hear from Mr. Harris and the Titanium Dioxide Industry Group.

STATEMENTS OF WILLIAM T. GLYNN, CHAIRMAN, HITOX CORP. OF AMERICA; D. GEORGE HARRIS, PRESIDENT, CHEMICAL DIVISION, SCM CORP.; AND ROBERT L. HEFFELFINGER, PRODUCT MANAGER, CHEMICAL AND PIGMENTS DEPARTMENT, E. I. DU PONT, ALL ON BEHALF OF THE TITANIUM DIOXIDE INDUSTRY GROUP; ACCOMPANIED BY PETER BUCK FELLER, COUNSEL

Mr. GLYNN. I am going to speak first. Mr. Chairman, I am William T. Glynn, the chairman of the Hitox Corp. of America with corporate offices in Red Bank, N.J., Corpus Christi, Tex., and our pigment plant is in Corpus Christi, Tex. With me this afternoon on my immediate right is Mr. D. George Harris, president of the Chemical Division of SCM Corporation; Mr. Robert Heffelfinger, product manager of the chemical and pigments department of E. I. du Pont; and Mr. Peter Buck Feller of the law firm of McClure & Trotter.

We are appearing, Mr. Chairman, on behalf of the Titanium Industry Pigments Group who comprise SCM Corp., Gulf and Western, Du Pont de Nemours, Associated Minerals, American Cyanamid Co., and Hitox Corp. Mr. Chairman, we urge the subcommittee to act favorably on H.R. 1890 which would suspend the present 6.3 percent duty on synthetic rutile until June 30, 1987.

This bill is vitally important to the titanium dioxide industry in the United States because synthetic rutile is one of the basic source materials. Today the titanium pigment industry is caught in a severe cost-price squeeze. Our raw material costs have been going

up while imports of titanium pigments have been increasing at a rapid pace.

In the last 3 years the import market share grew by some 46 percent. Import penetration is now close to 20 percent.

That import penetration will accelerate unless our raw material cost can be moderated by suspending the duty on synthetic rutile. The burden of the duty is especially harmful to my company because synthetic rutile is the only feed material we can use in our production process.

To some extent other titanium dioxide producers are able to use other feed materials, natural rutile, ilmenite or titanium slag in place of synthetic rutile. Incidentally, natural rutile, ilmenite and titanium slag, the other alternate feed materials are duty free under the tariff schedules.

In our case the required grade of synthetic rutile is not consistently available, or has not been consistently available, from any domestic source and, therefore, we must import it and have been doing so for a number of years. Hitox Corp., employs a unique method of producing pigment which allows us to compete with the large producers some of whom are appearing this afternoon.

As the domestic economy improves and imports of titanium pigments stabilize, we contemplate an expansion of our production facilities and the creation of over 150 additional jobs between 1985 and 1987. Suspension of the duty on synthetic rutile would help us realize those plans.

On the other hand, assessment of a 6.3-percent duty would damage our company's ability to compete and really to remain in business. Now, this is a short statement that I have prepared, and the gentlemen on my right will provide you with a short statement of their viewpoints on this matter.

With your permission, Mr. Chairman, I have a more detailed statement of the Titanium Dioxide Industry Group which I would like to submit for the record, and I would like to make that statement a part of this record.

Chairman GIBBONS. Yes. We will make that a part of the record.

[The prepared statements follow:]

STATEMENT OF WILLIAM T. GLYNN, CHAIRMAN, HITOX CORPORATION OF AMERICA

SUMMARY

The Titanium Dioxide Industry Group[1] strongly supports the duty suspension on synthetic rutile. The entire titanium dioxide industry, except Kerr-McGee, favors the bill because the industry is caught in a severe cost-price squeeze. The duty is especially harmful to Hitox Corporation because synthetic rutile is the only feed material we can use in our production process. We are dependent on imports since the required grade of synthetic rutile is generally not available domestically.

Mr. Chairman; distinguished Members of the Subcommittee. My name is William T. Glynn. I am Chairman of the Board of Hitox Corporation. We have corporate offices in Red Bank, New Jersey, and Corpus Christi, Texas.

With me today are D. George Harris, President, Chemical Division, SCM Corporation; Robert Heffelfinger, Product Manager, Chemical and Pigments Department, E. I. duPont; and Peter Buck Feller from the law firm of McClure & Trotter. We are appearing on behalf of the Titanium Dioxide Industry Group,[1] which represents

[1] The Titanium Dioxide Industry Group consists of the following companies: Hitox, SCM, Gulf + Western, duPont, Associated Minerals and American Cyanamid.

United States producers of titanium dioxide products, particularly pigments, with the exception of Kerr-McGee.

Mr. Chairman, we urge this Subcommittee to act favorably on H.R. 1890, which would suspend the present 6.3 percent duty on synthetic rutile until June 30, 1987. This bill is vitally important to the titanium dioxide industry in the United States because synthetic rutile is one of our basic source materials. Today, the titanium pigments industry is caught in a severe cost-price squeeze. Our raw material costs have been going up while imports of titanium pigments have been increasing at a rapid pace. In the last three years the import market share grew by some 46 percent. Import penetration is now close to 20 percent. That import penetration will accelerate unless our raw material costs can be moderated by suspending the 6.3 percent duty.

The burden of the duty is especially harmful to my company because synthetic rutile is the only feed material we can use in our production process. To some extent, other titanium dioxide producers are able to use natural rutile, ilmenite, or titanium slag, in place of synthetic rutile. Incidentally, natural rutile, ilmenite and titanium slag are duty-free under the Tariff Schedules.[2] In our case, the required grade of synthetic rutile is not consistently available from any domestic source and, therefore, we must import it and have been doing so for a number of years.

We employ a unique method of producing titanium pigments which allow us to compete with the large producers. As the domestic economy improves and imports of titanium pigments stabilize, we contemplate an expansion of our production facilities and the creation of over 150 additional jobs between 1985 and 1987. Suspension of the duty on synthetic rutile would help us realize those plans. On the other hand, assessment of the 6.3 percent duty would damage our company's ability to compete and remain in business.

With your permission, Mr. Chairman, I have a more detailed statement of the Titanium Dioxide Industry Group which we would like to submit for the record at this time. Thank you.

Statement of the Titanium Dioxide Industry Group

SUMMARY

The entire United States pigments industry,[1] except Kerr-McGee, is supporting the duty suspension on synthetic rutile. The bill would alleviate the adverse economic impact of the 6.3 percent duty. The Subcomittee should approve H.R. 1890 for the following reasons:

The U.S. titanium pigments industry is experiencing considerable economic hardship, in part because of the increased cost of one of their primary materials, synthetic rutile, the great bulk of which comes from Australia. Domestic production of titanium pigments has declined by 14 percent since 1979, while employment has declined from 4,800 to 4,200, a drop of 12.5 percent.

Imports of titanium pigments have increased by 32 percent since 1979, and have captured about 20 percent of the U.S. market.

Kerr-McGee is the only domestic producer of synthetic rutile. It is also a producer of titanium pigments. Retention of the 6.3 percent duty would make other U.S. pigments producers increasingly dependent on a competitor in the pigments market for their synthetic rutile supplies.

Without duty relief on synthetic rutile U.S. pigments producers would be forced to consider joining the growing movement in the United States favoring protectionist legislation.

Duty-free treatment for synthetic rutile would not adversely affect domestic production. The import share of the synthetic rutile market decline substantially between 1980 and 1982, even though synthetic rutile was duty-free for most of that time.

All the source materials for titanium dioxide are duty-free, except synthetic rutile. Since they are interchangeable for all practical purposes, they should receive the same tariff treatment.

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[1] See TSUS items 601.51 (ilmenite and natural rutile), 603.62 (titanium slag) and 603.70 (synthetic rutile).

STATEMENT

The Titanium Dioxide Industry Group [2] strongly urges passage of H.R. 1890, a bill to continue until June 30, 1987, the suspension of the 6.3 percent on synthetic rutile. The entire United States titanium dioxide industry, except Kerr-McGee, is supporting this legislation.

This bill is vitally important to the titanium dioxide industry in the United States because synthetic rutile is one of our basic source materials. today, the titanium dioxide industry is caught in a severe cost-price squeeze. Our raw material costs have been gone up while imports of titanium pigments have been increasing at a rapid pace. In the last three years the import market share grew by some 46 percent. Import penetration is now close to 20 percent. That import penetration will accelerate unless our raw material costs can be moderated by suspending the 6.3 percent duty.

Members of the Group operate titanium dioxide plants in Corpus Christi, Texas (Hitox); Baltimore, Maryland (SCM); Ashtabula, Ohio (SCM and Gulf + Western); Gloucester City, New Jersey (Gulf + Western); Edge Moor, Delaware, Delisle, Mississippi, Antioch, California, and New Johnsonville, Tennessee (DuPont); and Savannah, Georgia (American Cyanamid).

Synthetic rutile, as well as natural rutile, is the raw material from which titanium dioxide is made. In turn, titanium dioxide is an indispensable pigment used in the production of paint, paper and plastics. Because of health considerations, titanium dioxide has replaced lead for this purpose in paints.

A need for synthetic rutile developed in the early 1970's as lead-based white pigments were discontinued, while rutile remained relatively scarce. Because natural rutile is duty-free, Congress suspended the duty on synthetic rutile in 1974 for three years (Public Law 93-470) and again in 1977 for two years (Public Law 95-160). In 1980 Congress extended the duty suspension through June 30, 1982, by Public Law 96-467. After that date, a duty of 6.6 percent ad valorem went into effect. The current duty is 6.3 percent ad valorem. Under concessions granted in the Multilateral Trade Negotiations, the MFN rate of duty on synthetic rutile is to be staged down in eight installments from 7.5 percent ad valorem in 1979, to an eventual permanent rate of 5 percent ad valorem in 1987.

The original suspension was recommended by the Committee on Ways and Means in H.R. Rep. No. 93-973, 93d Congress, 2d Sess., which reported as follows:

"Your committee believes that temporary suspension of the duty on synthetic rutile would aid the United States in obtaining a greater share of the limited world supply, thereby helping to maintain production and employment levels in domestic manufacturing, particularly in the paint and pigment industries. Temporary removal of the duty, as provided under the bill, would also serve domestic consumer and ecological considerations."

In the continuation of the duty suspension the Senate Report, No. 95-419, 95th Congress, 1st Sess., stated as follows:

"Enactment * * * would continue the elimination of an unnecessary cost of a raw material, synthetic rutile, which is not domestically produced in sfficient quantities and for which there is a growing demand."

Because the condition of the titanium dioxide industry has deteriorated substantially in the last three years, the reasons for suspending the duty are more compelling than ever.

Industry experiencing considerable economic distress

The United States is a very substantial user of titanium products, normally consming about 800,000 tons of pigment per year and about 45,000 tons of titanium metal. The U.S. titanium dioxide industry, particularly the pigments sector, is experiencing considerable economic distress of general economic conditions, particularly the depression in the housing industry, and important consumer of white paint produced from titanium dioxide. The industry is caught in a severe cost-price squeeze between the increased cost of one of our primary materials, synthetic rutile, the great bulk of which comes from Australia and increased competion from imports. The duty has the added effect of raising prices from the other source materials for titanium dioxide, natural rutile and titanium slag, since they are all generally inter-

[2] The Titanium Dioxide Industry Group consists of the following companies: Hitox, SCM, Gulf + Western, DuPont, Associated Minerals and American Cyanamid. All members of the group produce titanium dioxide, except Associated Minerals, which produces natural rutile at its facility in Florida. Associated Minerals is interested in the economic health of its customers, the titanium dioxide producers in the United States.

changeable. The duty burden, therefore, is helping to accelerate the economic decline in the industry. As indicated in the table below, domestic production of titanium dioxide has dropped an alarming 14.4 percent since 1979

DOMESTIC PRODUCTION

[Short tons]

Year	Titanium dioxide	Percent change
1979	742,081	
1980	727,245	−1.9
1981	750,141	+3.1
1982 (estimate)	635,000	−15.3
Percent change, 1979 to 1982		−14.4

Sources: Bureau of Mines, U.S. International Trade Commission.

An additional indicator of the plight of the industry is the fact that employment has declined by almost 13 percent in the last three years. The Bureau of Mines statistics indicate that employment in the U.S. titanium pigments industry was about 4,200 in 1982. This represents a loss of 400 jobs since 1981, and 600 since 1979. The Commerce Department has given this grim assessment of the titanium dioxide industry:

"The employment situation continues to deteriorate in the inorganic pigment industry, with a decline of almost 1 percent in total employment during 1982. The impact has been greater on production worker employment, which declined 2.6 percent." (1983 U.S. Industrial Outlook at p. 12–4).

Import competition has increased sharply

At the same time, the U.S. titanium pigments industry has been under heavy import pressure. Imports of titanium dioxide pigments have increased sharply, from 104,968 short tons in 1979 to 138,922 short tons in 1982—a jump of 32.3 percent—and have captured almost 20 percent of the U.S. market, as shown in the following tables. The growth in import market share in the last three years is some 46 percent.

IMPORTS

[Short tons]

Year	Titanium dioxide	Percent change
1979	104,968	
1980	97,590	−7.0
1981	124,906	+28.0
1982	138,922	+11.2
Percent change, 1979 to 1982		+32.3

Sources: Bureau of Mines, U.S. International Trade Commission.

IMPORT MARKET PENETRATION TITANIUM DIOXIDE PIGMENTS

[Short tons]

Year	Imports	Apparent Consumption	Import Market penetration (percentage)
1979	104,968	837,042	12.5
1980	97,597	753,480	12.9
1981	124,906	794,991	15.7
1982	138,922	721,000	18.3

Sources: Bureau of Mines, U.S. International Trade Commission.

Since 1981 the unit value of titanium dioxide imports has increased by 3.5 percent, while the cost of synthetic rutile imports (the domestic industry's raw materi-

al) has increased by 6.3 percent. The result is that U.S. pigments producers are losing their ability to compete with imports, the primary source of which is the EEC. Pigments producers in the EEC do not bear a duty burden on their raw material imports since they receive drawback for duties paid on the synthetic rutile content of their titanium dioxide exports.

Duty would contribute to unhealthy competitive situation

Kerr-McGee is the only domestic producer of synthetic rutile. It is also a producer of titanium pigments. Retention of the 6.3 percent duty would make other U.S. pigments producers increasingly dependent on a competitor in the pigments market for their synthetic rutile supplies. Kerr-McGee is opposed to H.R. 1890. There is a bitter irony to that opposition, inasmuch as Kerr-McGee uses duty-free ilmenite from Australia as its source material for the production of synthetic rutile.[3] In other words Kerr-McGee would have Congress deny duty-free treatment for our source material, while taking full advantage of duty-free treatment for its source material.

Import sources of supply needed

The availability of about 30,000 tons of synthetic rutile from Kerr-McGee in the commercial market at the present time appears to be a temporary phenomenon, and does not represent a stable source of domestic supply. The reason is the Kerr-McGee has adopted a plan to build a new titanium dioxide facility in Alabama to be supplied by the synthetic rutile facility in that location. That part of the plan (a new titanium dioxide facility) is temporarily suspended, after initial construction had been completed, because of market conditions, particularly in the housing industry. When market conditions improve it is expected that the plant will be completed and that all the synthetic rutile needs of Kerr-McGee will be supplies from its Mobile plant, with no synthetic rutile available for sale to domestic users.

Bill would aid competitiveness of domestic pigments industry

Without duty relief on synthetic rutile U.S. pigments producers would be forced to consider joining the growing movement in the United States seeking protectionist legislation or other forms of import relief. The U.S. pigments industry cannot afford to stand idle and allow imports to capture an even larger share of the domestic market. A roll-back of the synthetic rutile duty would enable the U.S. industry to retain its competitiveness against imports of the finished product.

No other U.S. industry would be adversely affected

Duty-free treatment for synthetic rutile would not adversely affect domestic production. This is evident from the fact that the import share of the synthetic rutile market declined substantially between 1980 and 1982, even though synthetic rutile was duty-free for the most of that period. As shown in the table below, imports of synthetic rutile decreased by 79.5 percent from 1979 to 1982.

IMPORTS

[Short tons]

Year	Synthetic rutile	Percent change	Natural rutile	Percent change
1979	118,066		164,934	
1980	78,263	−33.7	203,737	+23.5
1981	41,351	−47.2	160,649	−21.1
1982	24,194	−41.5	139,131	−13.4
Percent change, 1979 to 1982		−79.5		−15.6

Sources: Bureau of Mines, U.S. International Trade Commission.

If U.S. pigments producers are able to increase their competitiveness and expand their market share, the demand for Kerr-McGee's product will increase.

Duty constitutes tariff anomaly

It is anomalous to have a duty on synthetic rutile. Of all the raw materials used to produce titanium pigment, only synthetic rutile is dutiable. Natural rutile and

[3] "The only domestic synthetic rutile plant, at Mobile, Ala., continued in operation in 1982, using Australian ilmenite as feed material." (Bureau of Mines Mineral Commodity Summaries 1983 at p.71).

titanium slag, the primary alternatives to synthetic rutile, are duty-free under TSUS items 601.51 and 603.62, respectively. Natural rutile, a titanium dioxide-bearing ore, and synthetic rutile are both used as feed material for the production of titanium pigment by the chloride process, and for the production of titanium metal.

Since natural rutile, synthetic rutile and titanium slag are interchangeable for all practical purposes, there is no real reason why they should be treated differently under the Tariff Schedules. However, Congress was not in a position to make this determination when the Tariff Schedules were adopted in 1963, for the simple reason that synthetic rutile had not yet been developed as a commercial article. Consequently, synthetic rutile falls into a basket tariff category (TSUS 603.70). (See Appendix I for a detailed explanation of the tariff anomaly.)

Synthetic rutile imports from certain designated underdeveloped countries are eligible for duty-free treatment under the Generalized System of Preferences. India is probably the only beneficiary developing country that exports synthetic rutile. The principal source for U.S. imports of synthetic rutile, as well as natural rutile, is Australia, a country which is not eligible for GSP treatment.

CONCLUSION

In conclusion, we believe that favorable action by the Subcommittee on H.R. 1980 is clearly warranted because (1) it would roll back a significant increase in the raw material costs of the domestic titanium dioxide industry, whcih is experiencing economic difficulties due to market weakness and sharp import competition; (2) it would help perserve jobs in the pigments industry; (3) it would not adversely affect any other domestic inustry; (4) it would maintain a healthy competitive environment, and would maintain needed import sources of supply; and (5) it would equalize the tariff treatment as between natural and synthetic rutile.

For these reasons, we urge the Subcommittee to approve H.R. 1890.

APPENDIX I

ANOMALIES IN TARIFF TREATMENT OF SYNTHETIC RUTILE

A tariff rate of 6.3 percent for synthetic rutile represents a glaring anomaly in the Tariff Schedules because the only other source materials for titanium dioxide pigments are natural rutile and titanium slag which are duty-free under TSUS Items 601.51 and 603.62, respectively. Moreover, the duty rate for this basic industrial source material is substantially higher than the duty rate for synthetic rutile of gemstone quality—a luxury article—which is classified under TSUS Item 520.71 at 3.6 percent.

The reason for this anomaly is the fact that synthetic rutile, as a source material for titanium dioxide, was not an article of trade when the Tariff Schedules were adopted.[1] In the Customs Simplification Act of 1954 Congress directed the Tariff Commission to undertake a comprehensive study of the tariff status of imported articles and to submit a revision of the pertinent laws which would, among other things, eliminate anomalies and illogical results in the classification of articles. The result was the Tariff Classification Study which was submitted to the responsible legislative committees in 1960. Since synthetic rutile was not an article of trade when that study was performed, there was obviously no discernible anomaly at that time and consequently no opportunity for the Tariff Commission to make a curative revision.

The Tariff Schedules set forth in the Commission's Study were subsequently adopted by the Tariff Classification Act of 1962, becoming effective upon proclamation by the President in 1963. At the time of the adoption of the Tariff Schedules there was one known processed source material for titanium dioxide, apart from natural rutile and ilmenite. That source material was titanium slag, obtained from the smelting of a particular kind of ilmenite, which produces a titanium-bearing source material containing by weight over 40 percent titanium and over 70 percent titanium dioxide. Congress accorded such titanium slag duty-free status under TSUS Item 603.62. Although synthetic rutile is considerably higher in titanium and titanium dioxide content, it is not technically a "slag".

If synthetic rutile had been an article of trade when the tariff structure was reviewed in formulating the current Tariff Schedules, it is reasonable to assume that

[1] Synthetic rutile began to be used as a source material for titanium dioxide on a commercial basis about 1971.

it would have been accorded the same duty-free treatment. See TSUS Item 601.51 ("Titanium ore (including ilmenite, ilmenite sand, rutile, and rutile sand")).

Mr. GLYNN. Mr. Harris has a few words for you.

Mr. HARRIS. Mr. Chairman, I would like to thank you and the other members of the committee for inviting us to appear today before you to support the bill, H.R. 1890, to suspend duty on synthetic rutile. I am George Harris, president of the chemical division of SCM Corp. SCM is a U.S. producer of titanium dioxide pigments with production facilities in Ashtabula, Ohio, and Baltimore, Md.

The titanium pigments industry is experiencing considerable economic distress in part because of the increased cost of one of our primary feed materials, synthetic rutile the great bulk of which comes from Australia. Domestic production of titanium pigments has declined by about 14 percent since 1979 and employment has also gone down by about 14 percent.

Unemployment in the industry right now stands at about 12.5 percent, which is above the national average. At the same time imports of titanium pigments have increased by 32 percent since 1979, and as you previously heard have captured about 20 percent of the U.S. market.

Although the unit value of titanium pigment imports has increased in 1982 over 1981 by 3.5 percent, today the unit value of titanium dioxide pigments is actually lower than it was in 1981 while the cost of synthetic rutile imports has increased by 6.3 percent.

Under these circumstances, we would urge Congress not to undercut the ability of the domestic pigments industry to compete with imports. Instead Congress should continue the duty suspension on synthetic rutile so that the U.S. industry can maintain its competitiveness against imports of the finished product, that is the titanium dioxide pigment.

Otherwise U.S. pigment producers would be forced to consider joining the ranks of the U.S. industry seeking protectionist legislation or other forms of import relief. To put this matter in perspective, Mr. Chairman, Kerr-McGee is the only domestic producer of synthetic rutile which is the raw material. It is also a producer of titanium pigments.

Retention of the 6.3-percent duty would make other U.S. pigment producers increasingly dependent on a competitor in the pigments market for the synthetic rutile supplies. Obviously Kerr-McGee is opposed to H.R. 1890.

There is a kind of an irony in this because their import of their raw material, in other words the source of the raw material that they are talking about is duty-free ilmenite from Australia. In other words, the same long distance away that they were saying that ours comes from has—Australian ilmenite—as its source material for the production of synthetic rutile.

In other words, Kerr-McGee would have Congress deny duty-free treatment for our source material while taking full advantage of duty-free treatment for its own. We urge the subcommittee to reject that position by acting favorably on H.R. 1890.

Maybe I could just quickly summarize. The industry is in economic distress. The domestic production is down 14 percent since 1979. Imports have risen to the point where they have now over 20

percent market share, and Kerr-McGee wants to maintain a position of economic advantage over its U.S. competitors which handicaps them versus international competition by maintaining this duty, and last that the raw material for everybody comes from Australia.

Thank you very much.

[The prepared statement follows:]

STATEMENT OF D. GEORGE HARRIS, PRESIDENT, CHEMICAL DIVISION, SCM CORP.

SUMMARY

SCM Corporation urges the Subcommittee to approve H.R. 1890. The U.S. titanium pigments industry is in considerable economic distress. Domestic production has declined by 14 percent since 1979, while employment has declined from 4,800 to 4,200. At the same time imports of titanium pigments have increased by 32 percent, and have captured about 20 percent of the U.S. market.

Under these circumstances, Congress should not undercut the ability of the domestic pigments industry to compete with imports. Instead, it should continue the duty suspension to reduce the industry's raw material costs. This would help it retain its competitiveness.

STATEMENT

Mr. Chairman, I want to thank you and the other Members of the Subcommittee for giving us the opportunity to appear today in support of H.R. 1890 (to suspend the duty on synthetic rutile).

I am D. George Harris, President, Chemical Division, SCM Corporation. SCM Corporation is a United States producer of titanium dioxide pigments. Our production facilities are located in Ashtabula, Ohio, and Baltimore, Maryland.

The U.S. titanium pigments industry is experiencing considerable economic distress, in part because of the increased cost of one of our primary feed materials, synthetic rutile, the great bulk of which comes from Australia. Domestic production of titanium pigments has declined by 14 percent since 1979, while employment has declined from 4,800 to 4,200. Unemployment in the industry now stands at 12.5 percent—well above the national average.

At the same time imports of titanium pigments have increased by 32 percent since 1979, and have captured about 20 percent of the U.S. market. Since 1981 the unit value of titanium pigment imports has increased by 3.5 percent, while the cost of synthetic rutile imports has increased by 6.3 percent.

Under these circumstances, we urge Congress not to undercut the ability of the domestic pigments industry to compete with imports. Instead, Congress should continue the duty suspension on synthetic rutile so that the U.S. industry can retain its competitiveness against imports of the finished product—titanium dioxide pigment. Otherwise, U.S. pigments producers would be forced to consider joining the growing ranks of U.S. industries seeking protectionist legislation or other forms of import relief.

To put this matter in perspective, Mr. Chairman, Kerr-McGee is the only domestic producer of synthetic rutile. It is also a producer of titanium pigments. Retention of the 6.3 percent duty would make other U.S. pigments producers increasingly dependent on a competitor in the pigments market for their synthetic rutile supplies. Kerr-McGee is opposed to H.R. 1890. There is a bitter irony to that opposition, inasmuch as Kerr-McGee uses duty-free ilmenite from Australia as its source material for the production of synthetic rutile.[1] In other words Kerr-McGee would have Congress deny duty-free treatment for our source material, while taking full advantage of duty-free treatment for its source material. We urge this Subcommittee to reject that position by acting favorably on H.R. 1890.

Mr. HEFFELFINGER. Mr. Chairman, my name is Robert Heffelfinger, product manager of the chemical and pigments department of Du Pont. My company strongly supports this bill since we use

[1] "The only domestic synthetic rutile plant, at Mobile, Ala., continued in operation in 1982, using Australian ilmenite as feed material." (Bureau of Mines "Mineral Commodity Summaries 1983" at p. 71).

synthetic rutile in production of titanium pigments at Antioch, Calif.

The duty on synthetic rutile represents an anomaly in the tariff schedules. All other source materials for titanium dioxide are duty free under these schedules. Natural rutile is duty free under item 601.51 and titanium slag is duty free under item 603.62. Since synthetic rutile, natural rutile, and titanium slag are interchangeable, there is no real reason why they should be treated differently under the tariff schedules.

Unfortunately, synthethic rutile was not a product in Commerce when the tariff schedules went into effect in 1963 and, therefore, falls into a dutiable basket category 603.70. I believe that Congress would have provided the same treatment for synthetic rutile as it did for natural rutile if it had the opportunity to do so at that time.

Congress did, however, suspend the duty on synthetic rutile in 1974, 1977, and 1980. The suspension approach enabled the United States to use the synthetic rutile tariff to obtain reciprocal concessions during the Tokyo round of multilateral trade negotiations. As a consequence the duty is scheduled to be reduced to 5 percent by 1987.

We submit that the effect of the 6.3 percent duty on synthetic rutile would not be confined strictly to synthetic rutile. The duty would cause the price of natural rutile and titanium slag to rise as well. The reason is that these raw materials are generally interchangeable as noted before and are priced accordingly. If the price of one is inflated by a duty, suppliers will increase prices of the other competitive ores. Therefore, the cost effect on the U.S. titanium dioxide industry extends well beyond the imposition of a 6.3 percent on just synthetic rutile. Indeed, we estimate that the cost of this duty for just Du Pont would be well above that estimated by Kerr-McGee in their previous presentations.

When Congress continued the suspension in 1980, it did so over Kerr-McGee's objections. That suspension expired on June 30, 1982. Last year when a further continuation of the suspension was sought, Kerr-McGee's opposition prevailed. We submit, Mr. Chairman, that this may be the year for a compromise. Under such a compromise the titanium dioxide industry might obtain some relief on its raw material cost to help it withstand strong import competition in the pigments market, while Kerr-McGee might be able to utilize some of its excess synthetic rutile capacity. One of several approaches to such a compromise might be a tariff rate quota that would subject the first 25,000 short tons of imported synthetic rutile to the duty and would suspend the duty on imports in excess of that amount.

Thank you.

[The prepared statement and factsheet follow:]

STATEMENT OF ROBERT L. HEFFELFINGER, PRODUCT MANAGER, CHEMICAL AND PIGMENTS DEPARTMENT, E. I. DU PONT

SUMMARY

Du Pont strongly supports H.R. 1890. The domestic pigments industry is facing fierce competition from imports. The duty suspension would enable the industry to obtain relief on its raw material costs. Furthermore, it would equalize the tariff

treatment between synthetic rutile and the other source materials for titanium dioxide.

STATEMENT

Mr. Chairman, my name is Robert Heffelfinger, Product Manager of the Chemical and Pigments Department of E. I. du Pont. My company strongly supports this bill, since we use synthetic rutile in our production of titanium pigments at Antioch, California.

The duty on synthetic rutile represents an anomaly in the Tariff Schedules. Other source materials for titanium dioxide are duty-free under the Tariff Schedules. Natural rutile is duty-free under Item 601.51 and titanium slag is duty-free under Item 603.62. Since synthetic rutile, natural rutile and titanium slag are interchangeable, there is no real reason why they should be treated differently under the Tariff Schedules. Unfortunately, synthetic rutile was not a product in commerce when the Tariff Schedules went into effect in 1963 and, therefore, falls into a dutiable basket category (Item 603.70). I believe that Congress would have provided the same treatment for synthetic rutile as it did for natural rutile, if it had had the opportunity at that time.

Congress did, however, suspend the duty on synthetic rutile in 1974, 1977 and in 1980. The suspension approach enabled the United States to use the synthetic rutile tariff to obtain reciprocal concessions during the Tokyo Round of Multilateral Trade Negotiations. As a consequence, the duty is scheduled to be reduced to 5 percent by 1987.

We submit that the effect of the 6.3 percent duty on synthetic rutile would not be confined to synthetic rutile. The duty would cause the price for natural rutile and titanium slag to rise as well. The reason is that these raw materials are generally interchangeable, as noted before, and are priced accordingly. If the price of one is inflated by a duty, suppliers will increase prices of the other competitive ores. Therefore, the cost effect on the U.S. titanium dioxide industry extends well beyond the imposition of a 6.3 percent duty on synthetic rutile.

When Congress continued the suspension in 1980 it did so over Kerr-McGee's objections. That suspension expired on June 30, 1982. Last year, when a further continuation of the suspension was sought, Kerr-McGee's opposition prevailed. We submit, Mr. Chairman, that this may be the year for a compromise. Under such a compromise the titanium dioxide industry might obtain some relief on its raw material costs to help it withstand strong import competition in the pigments market,[1] while Kerr-McGee might be able to utilize some of its excess synthetic rutile capacity. One of several approaches to such a compromise might be a tariff-rate quota that would subject the first 25,000 short tons of imported synthetic rutile to the 6.3 percent duty and would suspend the duty on imports in excess of that amount. Thank you.

FACT SHEET

Rutile, both synthetic and natural, is the basic raw material used to produce titanium dioxide pigment. A need for synthetic rutile developed in the mid-1970's, as lead-based white pigments were discontinued, while natural rutile remained relatively scarce. Because natural rutile is duty-free, Congress suspended the duty on synthetic rutile in 1974 and again in 1977. In 1980 Congress extended the duty suspension until June 30, 1982. After that date, a duty of 6.6 percent ad valorem went into effect. The current duty is 6.3 percent ad valorem.

IMPORTS

[In short tons]

Year	Synthetic rutile		Natural rutile		Titanium dioxide	
	Volume	Percent	Volume	Percent	Volume	Percent
1979	118,066		164,934		104,968	
1980	78,263	−33.7	203,737	+23.5	97,590	−7.0
1981	41,351	−47.2	160,649	−21.1	124,906	+28.0

[1] The attached Fact Sheet gives some indication of the condition of the domestic titanium pigments industry and the increased import competition which it is facing.

IMPORTS—Continued

[In short tons]

Year	Synthetic rutile		Natural rutile		Titanium dioxide	
	Volume	Percent	Volume	Percent	Volume	Percent
1982	24,194	−41.5	139,131	−13.4	138,922	+11.2
Percent change, 1979–82		−79.5		15.6		+32.3

DOMESTIC PRODUCTION

[In short tons]

Year	Titanium dioxide	
	Volume	Percent
1979	742,081	
1980	727,245	−1.9
1981	750,141	+3.1
1982 (estimated)	635,000	−15.3
Percent change, 1979–82		−14.4

TITANIUM PIGMENT EMPLOYMENT [1]

Year	Number
1979	4,800
1980	4,600
1981	4,600
1982	4,200

[1] There are about 113 workers engaged in the domestic production of synthetic rutile.

Sources: Bureau of Mines, U.S. International Trade Commission.

Chairman GIBBONS. Are there any questions?

[No response.]

Chairman GIBBONS. I notice that the administration is opposed to this bill. Have you all discussed this matter with the administration? Let's see. Hold on a second. Let me get my notes straight here.

The administration opposes Mr. Howard's bill. Do you know why?

Mr. FELLER. I am Peter Feller. Mr. Chairman, we understand that Commerce is opposed not because of any national security consideration which the gentleman from Kerr-McGee raised. They do not oppose for that reason.

They oppose for the reason that there is excess capacity for the production of synthetic rutile at the present time in the United States. I might add, however, that we have talked about a compromise where perhaps the interests of all parties to some degree can be protected.

They were very receptive to the idea. If the committee so wishes for such a compromise to be worked out if it is possible.

Mr. SCHIESZ. I would like to correct one statement. We certainly have not committed ourselves that we were going to agree to a compromise.

Chairman GIBBONS. You are very nearly in the same position that we found those pipe processors. A position in which you can't get access to your raw material except through your competitor. Is that true?

Mr. HARRIS. Unless we import.

Chairman GIBBONS. That is the same problem he had.

Mr. HARRIS. In any case, he could not supply the whole United States and second, we can only purchase through our competitor. Our international competitors do not have to purchase through him and, therefore, they have an economic advantage and, therefore, have been able to take 20 percent of the U.S. market.

Chairman GIBBONS. It is your contention then, and I am trying to analogize a little further, that his prices are too high and, therefore, you can't compete? Is that it?

Mr. HARRIS. With the 6.3-percent duty, he basically gets protection and compared with our international competitor that is true. We have a higher cost for raw material.

Mr. HEFFELFINGER. Mr. Chairman, I do not think it is a matter that his prices are too high. It is the fact that he cannot supply the market. It is not even close so you are going to put our industry in the position of paying duty on material well above what can be supplied by Kerr-McGee.

Chairman GIBBONS. Go right ahead. We are going to give you a chance. It is your chance now.

Mr. SCHIESZ. All I was going to say is I do not think we have ever contended that we wanted to try to supply the whole titanium dioxide raw material market. All we are saying is that with the domestic imports that have occurred within the last 3 years, and the capacity we have, there is sufficient capability to meet the level of the current import levels.

We have also stated that given the right opportunity and the right economic conditions we are willing to sit down and discuss long-term binding contractual agreements in which we would be competitive with the foreign supply.

Chairman GIBBONS. Of course, it is always a lot nicer when you can work these things out yourself instead of having us mess them up. If you cannot do it, we will have to go ahead and mess it up some way. We have the administration opposed to the bill. Therefore, it is going to take a little negotiation on somebody's part to get this thing going.

Mr. Heffelfinger, your company presents me with another dilemma. You were in here last week, as I recall and I may be wrong, objecting to some other competitors seeking a duty reduction. Regarding the Kimberly Clark Corp.'s bill, H.R. 1226; you were in here last week saying you were on the other side of the table, as I remember the argument. Am I right?

Mr. JENKINS. No, that was Surgikos.

Chairman GIBBONS. That was Johnson & Johnson. I am sorry. I don't know the difference. But thank you very much for straightening that out.

Does anyone else have any observations or questions?

[No response.]

Chairman GIBBONS. Thank you.

Mr. GLYNN. Thank you, Mr. Chairman.

Chairman GIBBONS. A word to the wise—straighten this out if you can or we will mess it up.

Mr. Heffelfinger, I understand that I was right the first time. Du Pont does make the material that Surgikos is complaining about. Maybe you can all talk this over.

Mr. HEFFELFINGER. Well, I would simply say I am not familiar with that case at all.

Chairman GIBBONS. Well, that is often the problem around here.

Mr. HEFFELFINGER. Each case has to be looked at on its own merits.

Chairman GIBBONS. I agree. It just puts us in an awful dilemma, though. Sorting out the merits is often difficult.

Let us proceed. Mr. Ratchford, please come on up. We are glad to have you here, and we recognize you as being a distinguished Member of Congress. Please bring your folks on up. We will recognize you first.

STATEMENT OF HON. WILLIAM R. RATCHFORD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. RATCHFORD. Mr. Chairman and members, thank you very much for this opportunity. I am Congressman Ratchford from the Fifth District of Connecticut. I have with me two counsels for Uniroyal and one of their chemical specialists, and we are here this morning to testify on behalf of H.R. 1951.

This, Mr. Chairman, is a bill to suspend temporarily the import duties on dimethylbenzyldiphenylamine. I have introduced this legislation on behalf of Uniroyal Chemical whose international headquarters is in my district.

Uniroyal historically has been the only manufacturer of this chemical in the United States and today, in fact, is the sole importer of this product. The chemical is an antioxidant used primarily for stabilizing polymers in a variety of applications including polyurethane foam, rubber, lubricating oil, insulating cables, and plastic pipe.

This chemical is classified for tariff purposes under item 404.88 of the tariff schedule of the United States, and it is dutiable at a rate of 1.4 cents per pound plus 18.8 percent ad valorem. This rate as you know, Mr. Chairman, is relatively high in relation to the duty rates on other chemicals because at the time of the Tokyo round of negotiations Uniroyal was the sole producer in the United States, and there were no imports of this chemical.

Prior to 1982 this chemical was produced at Uniroyal in Naugatuck, Conn., which is also in my district. In 1982 the Naugatuck facility was converted to the production of agricultural chemicals with no resultant loss of employment.

The production of this chemical was then transferred to a Uniroyal facility in Elmira, Canada, because there were no domestic facilities for its production. However, the tariff that Uniroyal now pays on this chemical threatens to upset its traditional pricing and profit structure, and further burden U.S. consumers.

Therefore, we seek a temporary suspension of the duty which would reduce the burden on Uniroyal while at the same time benefiting U.S. consumers. Since there are no other importers of this

product, the duty suspension in this case would not result in uncompensated benefits to other trading partners of the United States.

The suspension would also have no employment impact here in the United States or in Canada. In addition, there would be no significant revenue impact.

There was one other point, Mr. Chairman, I would like to make, given the current concern about hazardous waste. The Canadian Ministry of Environment utilizes EPA standards with regard to chemical classification and toxicity.

I have checked this chemical out thoroughly with the Canadian Ministry prior to the introduction of the legislation, and there are no known environmental problems either in production or waste disposal of this chemical at this time. Production waste is recycled into the production of chemical antioxidants.

I would, therefore, thank you Mr. Chairman and members of the committee, and I would note that the technical experts are here if you have questions and would be happy to respond to your concerns.

STATEMENT OF JERRY HOLLMANN, MARKET DEVELOPMENT SPECIALIST FOR POLYMER ADDITIVES, UNIROYAL CHEMICAL, ACCOMPANIED BY LEONARD LEHMAN AND MATTHEW T. McGRATH, COUNSELS

Mr. HOLLMANN. Mr. Chairman, I would like to also add to the comments of Congressman Ratchford. Mr. Chairman and members of the committee, I am Jerry Hollmann, market development specialist for polymer additives at Uniroyal Chemical and with me are Leonard Lehman and Matthew T. McGrath of Barnes, Richardson & Colburn.

We appreciate this opportunity to testify in support of H.R. 1951 introduced by Congressman Ratchford to suspend temporarily the import duties on dimethylbenzyldiphenylamine. This chemical as Congressman Ratchford noted is an antioxidant used for stabilizing polymers in a variety of applications and its end uses include polyurethane foam, rubber, lubricating oils, insulating cables, and plastic used in molded and sheet compounds such as pipe.

In addition to the comments from the Congressman, I would like to add that the duty, the tariff that we are now paying upon import from Canada essentially threatens to upset the traditional pricing and profit structure for this chemical further burdening our customers in the United States. The tariff which was originally intended to benefit Uniroyal is now working to our detriment. The only result is the unnecessary inflationary impact on sales of dimethylbenzyldiphenylamine.

A temporary suspension of this duty will return Uniroyal to the status quo existing before our production was shifted to Ontario. Since there are no other importers of the product, a duty suspension would not result in any uncompensated benefits to other trading partners of the United States. Its principal effect will be to benefit U.S. consumers of this chemical by avoiding unnecessary price increases.

We sincerely appreciate the support offered by Congressman Ratchford, Congresswoman Kennelly, and the members of the Connecticut delegation, and we ask that H.R. 1951 be reported favorably to the full committee.

We will be pleased to respond to any questions you may have, or to provide further data.

[The prepared statement follows:]

STATEMENT OF JERRY HOLLMANN, UNIROYAL CHEMICAL

SUMMARY

H.R. 1951 suspend temporarily the duty on dimethylbenzyldimethylamine.

Uniroyal is the only U.S. manufacturer and the only importer of this chemical.

At the time of the current classification of the chemical, Uniroyal was the only manufacturer, and there were no import sources. The duty rate was established for possible future competitive imports.

Since commencing importations from its Ontario plant, Uniroyal has been detrimentally affected by the imposition of this relatively high rate of duty.

When production of the chemical was shifted to the underutilized Ontario plant, there was no decline in the number of employees at the Naugatuck, Connecticut plant, and the same facility is now fully utilized in the production of other chemicals.

Suspension of the duty will correct an unintended result of the classification of this chemical and avoid an unnecessary burden for Uniroyal's customers.

STATEMENT

Mr. Chairman and members of the Committee, I am Jerry Hollmann, Market Development Specialist for Polymer Additives, Uniroyal Chemical. With me are Leonard Lehman and Matthew T. McGrath of Barnes, Richardson & Colburn. We appreciate this opportunity to testify in support of H.R. 1951, introduced by Congressman Ratchford, to suspend temporarily the import duties on dimethylbenzyldiphenylamine. This chemical is an anti-oxidant used for stabilizing polymers in a variety of applications. Among its end-uses are polyurethane foam, rubber, lubricating oil, insulating cables, and plastic which is used in molded and sheet products, such as plastic pipe.

Uniroyal is, and has been, the only manufacturer of this chemical in the United States, and is also the only importer of this product. Dimethylbenzyldiphenylaime is classified for tariff purposes under item 404.88 of the Tariff Schedules of the United States, dutiable at a rate of 1.4 cents per pound plus 18.8 percent ad valorem. This rate is relatively higher than the duty rates for other chemicals because, at the time of the Tokyo Round of tariff negotiations, there were no imports of the chemical which was, at that time, produced by Uniroyal only in the United States.

In 1982, we decided to improve our facility utilization at our Naugatuck, Connecticut plant by converting the equipment used for this chemical to the production of agricultural chemicals. The same U.S. workers are now fully engaged in producing these other chemicals, but no Uniroyal facilities are now available in the United States to manufacture dimethylbenzyldiphenylamine. Thus, we have been producing the chemical at our plant in Ontario, which was previously under-utilized. This conversion has improved Uniroyal's overall capacity utilization and profitability while resulting in no loss of American jobs of productive capacity.

However, the tariff we are now paying upon import from Canada threatens to upset the traditional pricing and profit structure for the chemical, further burdening our customers in the United States. The tariff which was originally intended to benefit Uniroyal is now working to our detriment. The only result is the unnecessary inflationary impact on sales of dimethylbenzyldiphenylamine.

A temporary suspension of this duty will return Uniroyal to the status quo existing before our production was shifted to Ontario. Since there are no other importers of the product, a duty suspension would not result in any uncompensated benefits to other trading partners of the United States. Its principal effect will be to benefit U.S. consumers of this chemical by avoiding unnecessary price increases.

We sincerely appreciate the support offered by Congressman Ratchford, Congresswoman Kennelly, and the members of the Connecticut delegation, and we ask that H.R. 1951 be reported favorably to the full Committee.

We will be pleased to respond to any questions you may have, or to provide further data.

Chairman GIBBONS. Does the Committee have any questions?

[No response.]

With sponsorship like that, I think you are probably going to get some favorable reaction from this committee.

Mr. RATCHFORD. Thank you very much, and I thought it very appropriate that he mentioned certainly one of the more distinguished members of the Ways and Means Committee. Barbara Kennelly is very concerned about this item, and I thank you.

Chairman GIBBONS. We will take into consideration both of your concerns, and that will weigh heavily on our decision.

Mr. RATCHFORD. Thank you, Mr. Chairman.

Chairman GIBBONS. Next, let us take up H.R. 2206 by Mr. Ireland, a bill which will suspend the duty on unwrought cobalt. Please proceed.

STATEMENT OF WARREN KATZMAN, COBALT SPECIALIST, PHILIPP BROS., INC., ACCOMPANIED BY ARTHUR M. MACKWELL, PUBLIC AFFAIRS DIRECTOR

Mr. MACKWELL. Mr. Chairman, I am Arthur Mackwell. I am public affairs director for Philipp Bros., Inc. You won't find my name on the list.

Chairman GIBBONS. We are glad to have you here.

Mr. MACKWELL. Mr. Katzman is the specialist on cobalt. He is very knowledgeable on that, but it is his first exposure to a congressional committee, and I thought he might be more comfortable if somebody who had some exposure before was here. That is why I am here.

Chairman GIBBONS. Go right ahead.

Mr. KATZMAN. Thank you.

Pure cobalt currently defined as minimum 99 percent cobalt has been exempted from the duty because there is only small secondary domestic production of cobalt, and domestic users are dependent upon imported material, the bulk of which comes from Zaire and Zambia.

The material described in this statement is imported for its cobalt value only. Cobalt is the key ingredient in certain tool and alloy steels, carbide production, chemicals and ceramics, magnets and in the superalloys used for such critical purposes as jet engine blades.

In some of these cases, some substitution has taken place or is taking place because of the price and uncertainty of supply, but in most cases cobalt is at least in the near term irreplaceable. The rise in price in 1979 made the cobalt refiners overseas reexamine their process to see where additional cobalt previously uneconomic to recover could be recovered.

As a direct consequence of this research, certain new grades of material are being recovered unlike the commonly used cobalt cathode, rondelles or granules that were the norm of this trade. The latter material produced by the traditional cobalt refineries generally have no problem in meeting the customs restriction of 99 percent.

However, these new low grade materials do not lend themselves to the manufacture of high purity metal. The chemical and metallurgical methods of treatment for these types of material are different from traditional cobalt refinery practices. The metal so generated will contain other elements which will bring the cobalt down in some cases to even under 90 percent.

The balance has generally been higher in nickel contents. The materials are not only difficult to extract, they also present difficulties in use.

It has been found, however, that by picking out certain of the lots on a lot-by-lot basis, a large portion of this material is useable for the manufacture of the superalloys, thereby augmenting the supply of cobalt for this critical use. The higher iron material is fully useable by consumers such as magnet melters.

Without this legislation restoring this material dutiable at 9 percent, the bulk of this material will end up being consumed in other industrialized countries since it will generally be uneconomical to import this material into the United States.

Maintenance of this duty will eliminate the import of the current production and discourage expansion and new production of similar type materials. U.S. consumer industries will be placed at a competitive disadvantage and American consumers will pay a higher price for finished products.

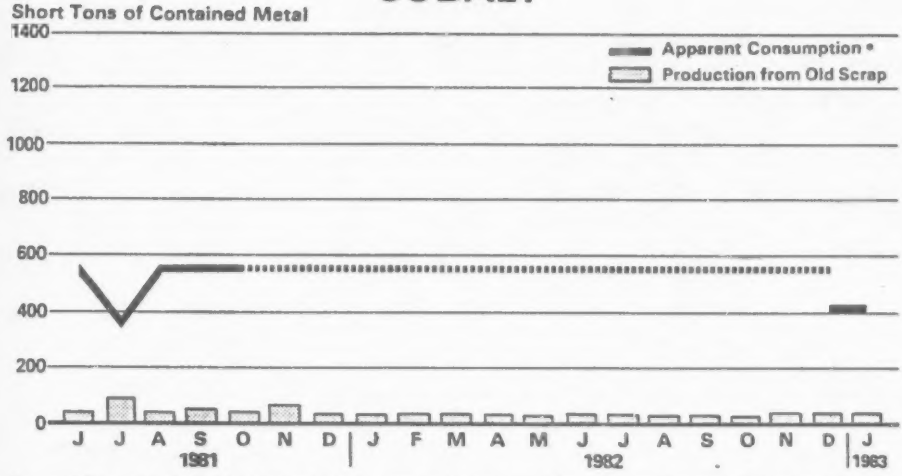
I attach a summary of U.S. Bureau of Mines statistics showing there is no domestic primary production of cobalt and that production from scrap amounts to only about 5 percent of annual domestic consumption.

Thank you.

[An attachment to the prepared statement follows:]

COBALT

Short Tons of Contained Metal



Apparent Consumption = Primary Production + Production from Old Scrap + (Imports-Exports) + (Beginning Inventories-Ending Inventories).

YEAR OR MONTH	APPARENT CONSUMPTION	REPORTED CONSUMPTION	PRODUCTION PRIMARY	PRODUCTION FROM OLD SCRAP[1]	IMPORTS	EXPORTS[2]	INVENTORIES PRIVATE[3]	INVENTORIES GOVERNMENT	PRICE ¢/LB.[4]
1978	10,182	9,997	0	518	9,515	774	3,010	20,401	11.53
1979	9,403	8,701	0	585	9,999	363	3,828	20,401	24.58
1980	8,527	7,661	0	592	8,151	292	3,753	20,401	25.00
1981	6,266	5,840	0	486	7,797	417	4,188	21,566[5]	19.73
1982[e]	5,500	5,000	0	500	6,500	250	4,000	23,000[5]	12.90
1981:									
JUNE	559	468	0	42	474	46	1,634	20,401	20
JULY	373	381	0	75	351	44	1,643	20,401	20
AUG	555	422	0	47	380	20	1,495	20,401	17.66
SEP	549	446	0	58	471	51	1,424	20,401	17.26
OCT	1,322[6]	435	0	53	1,223	35	1,343	20,401[6]	17.26
NOV	935[6]	402	0	63	1,142	19	1,594	20,401[6]	17.26
DEC	1,212[6]	411	0	44	1,109	48	1,487	20,401[6]	17.26
1982:									
JAN	540[6]	472	0	44	441	17	1,415	20,401[6]	17.26
FEB	1,004[6]	450	0	39	1,008	16	1,442	20,401[6]	12.50
MAR	1,203[6]	517	0	38	900	27	1,150	20,401[6]	12.50
APR	418[6]	405	0	36	492	17	1,243	20,401[6]	12.50
MAY	430[6]	368	0	31	443	24	1,263	20,401[6]	12.50
JUNE	956[6]	393	0	39	947	48	1,245	21,896[6]	12.50
JULY	520[6]	325	0	38	477	29	1,211	21,896[6]	12.50
AUG	328[6]	358	0	38	343	24	1,240	21,896[6]	12.50
SEP	307[6]	387	0	36	305	31	1,243	21,896[6]	12.50
OCT	283[6]	360	0	36	417	14	1,399	21,896[6]	12.50
NOV	409[6]	400	0	40	400	30	1,400	21,896[6]	12.50
DEC[e]	410	410	0	40	400	30	1,400	22,866	NA
1983:									
JAN[e]	410	410	0	40	400	30	1,400	22,866	NA

[e]Imports from Oct. 1981 through Nov. 1982 contained stockpile purchases which had not been officially accepted for the stockpile. Because these quantities are not reflected in the figures for government inventories, the apparent consumption figures are too high and are not graphed during this period.

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See footnotes at end of section. Data prepared January 24.

Chairman GIBBONS. All right. Do we have any questions for the panel?

[No response.]

Chairman GIBBONS. Thank you very much.

Mr. MACKWELL. Thank you, Mr. Chairman.

Mr. KATZMAN. Thank you.

Chairman GIBBONS. All right. We will wait on testimony for H.R. 2320 and H.R. 2502 and will go next to H.R. 1910 by Mr. Shannon. We have the fabric industries coalition, the Brunswick Corp., and the ad hoc committee.

I do not know. Are all of you on the same side of this issue?

A VOICE. No, Mr. Chairman.

Chairman GIBBONS. We will take both the proponents and the opponents. Let's take the proponents first.

STATEMENT OF FRED E. MAGENHEIMER, SENIOR VICE PRESIDENT, HERCULITE PRODUCTS, INC., AND CHAIRMAN, COATERS & LAMINATERS DIVISION, INDUSTRIAL FABRICS ASSOCIATION INTERNATIONAL, ON BEHALF OF THE FABRICS INDUSTRY COALITION, ACCOMPANIED BY C. MICHAEL DEESE, COUNSEL

Mr. MAGENHEIMER. Good afternoon, Mr. Chairman and members of the subcommittee.

I am Fred Magenheimer, senior vice president of Herculite Products, Inc. I appreciate the opportunity to be here today to testify in support of H.R. 1910. This bill is sponsored by Congressmen Shannon, Martin, Campbell, and Jenkins, and I am pleased to note that the administration testified in support of the bill last week.

This bill will, if enacted into law, return coated and laminated fabrics to their proper tariff classification, namely to a textile classification.

At this point I would ask that my complete written statement be included in the printed record of this hearing.

Chairman GIBBONS. Yes, sir, it will be.

Mr. MAGENHEIMER. I will attempt to summarize briefly the contents of my statement.

I am testifying today not just on behalf of my company; rather, I am here before you in my capacity as the chairman of the Coaters & Laminaters Division of the Industrial Fabrics Association International. In that capacity, I represent approximately 85 percent of the coaters and laminaters in the United States.

I am also speaking today on behalf of an interindustry coalition which includes not only the Industrial Fabrics Association, but also the American Textile Manufacturers Institute, the Man-Made Fiber Producers Association, the Chemical Fabrics & Film Association, the Knitted Textile Association, the Association of the Non-Woven Fabrics Industry, the Northern Textile Association, the Work Glove Manufacturers Association, who had testified here earlier, and Compo Industries, a major employer in the Lowell, Mass., area.

These industries and their member companies employ approximately 50,000 people and do about $1.1 billion in annual production. Today they face the prospect of being destroyed as a result of

judicial misinterpretation of action taken by this Congress some 20 years ago.

The overall textile industry is already hard hit by imports. Today there are 100,000 fewer workers in the industry than there were 2 years ago. Textile mill product imports through March are running at a record 19 percent above the first quarter of 1982.

H.R. 1910 would clarify certain headnotes to the tariff schedules in order to preclude the continued improper classification of coated fabrics as rubber or plastic articles. Those fabrics are textiles and Congress meant for them to be classified as textiles.

Until mid-1982 the Treasury Department and Customs Service classified all imported coated and laminated fabrics as textiles under part 4 of schedule 3 of the tariff schedule. As a result, many coated fabrics were subject to import quotas and most were not eligible for duty-free entry into the United States under the Generalized System of Preferences.

This tariff treatment was specifically provided for by Congress in 1963 and reaffirmed in 1965. I would like to read a small portion of the House report on the Tariff Schedules Technical Amendments Act of 1965:

> In the new tariff schedules, all woven and knit fabrics covered with rubber or plastics [except foam or sponge sheet] are specifically provided for in schedule 3. Schedule 3, headnote 2[a][iv], includes such fabrics in the definition of "textile materials." Thus, regardless of whether the textile fabric or the rubber or plastics is the component of chief value, the fabric as a whole is regarded for the purposes of the tariff schedules as a textile material when it is used for making other articles.

The fabrics at issue today are those referred to in the House report. It seems clear to me that Congress intended these textile fabrics, even though coated with plastics or rubber, to be classified as textiles, not as plastics.

This view was shared by the U.S. Customs Service until March of last year. Unfortunately, over the Government's vigorous objection, the Court of Customs and Patent Appeals saw fit to ignore the intent of Congress and to rule in two cases that, because coated fabrics are coated with rubber or plastics—note that the House report said to disregard the rubber or plastic component—they are therefore to be classified under schedule 7 as a rubber or a plastic, not under schedule 3 as a textile.

In general, this rubber or plastic classification means: One, a low duty; two, no quota; and three, an increased possibility of no duty under the GSP.

This bill, H.R. 1910, would affect only the fabrics which are currently being improperly classified as a result of the court decision. For example, finished articles made from these fabrics would not be affected.

On behalf of the eight industry groups which I am representing here today, I urge the enactment into law of H.R. 1910. I would be happy to respond to any questions the subcommittee may have.

Thank you for your time.

[The prepared statement follows:]

STATEMENT OF FRED E. MAGENHEIMER, SENIOR VICE PRESIDENT, HERCULITE PRODUCTS, INC., ON BEHALF OF INDUSTRIAL FABRICS ASSOCIATION INTERNATIONAL, ST. PAUL, MINN.; AMERICAN TEXTILE MANUFACTURERS INSTITUTE, WASHINGTON, D.C.; COMPO INDUSTRIES, LOWELL, MASS.; KNITTED TEXTILE ASSOCIATION, NEW YORK, N.Y.; MAN-MADE FIBER PRODUCERS ASSOCIATION, WASHINGTON, D.C.; CHEMICAL FABRICS AND FILM ASSOCIATION, CLEVELAND, OHIO; NORTHERN TEXTILE ASSOCIATION, BOSTON, MASS.; INDA, ASSOCIATION OF THE NON-WOVEN FABRICS INDUSTRY, NEW YORK, N.Y.

SUMMARY

The products: Textile fabrics coated or laminated with rubber or plastic; utilized in the upholstery, automotive, luggage, protective and safety apparel and marine industries.

The problem: It was the intention of Congress to classify coated fabrics as textiles under Schedule 3 of the Tariff Schedules. Two decisions of the Court of Customs and Patent Appeals (in 1977 and in 1981) have resulted in coated fabrics being misclassified as rubber or plastic articles, thereby gaining a lower duty, eligibility for duty-free entry into the United States and exemption from textile quotas.

The solution: H.R. 1910 returns coated fabrics to their proper and originally intended tariff classification as textiles. It accomplishes this by amending the Tariff Schedule Headnotes which were relied upon improperly by the Court of Customs and Patent Appeals to reach the erroneous rubber or plastic article classification. H.R. 1910 is narrowly drafted to ensure that it affects only coated fabrics, not end products made from coated fabrics.

I. INTRODUCTION

H.R. 1910 will correct an irregularity in the classification of imported coated fabrics[1] which has developed under the Tariff Schedules of the United States and threatens injury to domestic manufacturers and their employees. Congress established Tariff Schedules which, until recently, had been interpreted so that coated fabrics were classified under Schedule 3 as textile products. A domestic manufacturing industry developed in reliance upon this consistent interpretation of the tariff schedules. Several recent court decisions, contrary to the intent of Congress, the practice of the United States Customs Service and the understanding of the International Trade Commission, have resulted in the reclassification of certain coated fabrics under Schedule 7 as articles almost wholly of rubber or plastics. The potential adverse impact of this reclassification upon American companies and their workers, discussed in greater detail below, is substantial and must be avoided.

When enacted, H.R. 1910 will reinstate the classification under the Tariff Schedules which was intended by Congress but misinterpreted by the courts. If this measure is not enacted, unfair competition by foreign manufacturers of coated textile fabrics will have a severe impact upon a vital American industry and its employees. Congress fully intended for coated fabrics to be assessed the higher duty under Schedule 3, because domestic manufacturers cannot compete with foreign goods entering the United States at the lower, Schedule 7 rate.

On behalf of the domestic coated fabric producers, their suppliers and many of their customers, we support this legislation and urge its passage.

II. BACKGROUND INFORMATION

Imitation leather and other fabrics that have been coated, filled, or laminated with rubber or plastics were historically classified, for import purposes, as textile products under subpart 4C of Schedule 3 of the Tariff Schedules. Schedule 3 covers "Textile Fibers and Textile Products"; Subpart 4C includes "Coated or Filled Fabrics." These articles were recognized by Congress to be part of an import sensitive domestic industry. Thus, when imported they were subject to duties of up to 13.9 percent ad valorem, plus $0.10 per pound. In addition, the majority of these articles were *not*, when imported from developing countries, eligible for duty-free treatment

[1] Coated fabrics are those textile fabrics which are coated, filled or bonded with rubber or plastic material, or laminated with sheet rubber or plastics. These fabrics provide excellent tensile strength, tear resistance and flexibility and are commonly used in the automotive, wall-covering, upholstery, furniture, luggage, building and construction, apparel, marine and boating industries.

under the Generalized System of Preferences (GSP).[2] Further, when classified under Schedule 3, these fabrics may be subject to the quantitative restraints provided by the Arrangement Regarding International Trade in Textiles, known as the Multifiber Arrangement (MFA). The MFA provides a mechanism for limiting the level of trade growth in most textile and apparel articles of cotton, wool, and manmade fibers. The MFA, recognizing the economic needs of developing countries, was established to expand the participation of those countries as exporters in world textile trade without permitting the domestic markets of the importing countries to be disrupted.

The initial, judicial erosion of this established classification occurred in 1977 with the decision in *United States* v. *Canadian Vinyl Industries, Inc.*, 555 F.2d 806 (C.C.P.A. 1977). The merchandise at issue in that case consisted of flexible sheets of nylon fabric with a polyurethane "skin" on one side, made as a substitute for and an imitation of patent leather. The court rejected the government's position, advanced by the Treasury Department, that imitation patent leather was classifiable under TSUS 355.82 (subpart 4C of Schedule 3) as a coated textile fabric; instead, the court held that the merchandise was classifiable under TSUS 771.40 (Part 12 of Schedule 7) as a material almost wholly of rubber or plastics. For the most part, applicable rates of duty are lower under Schedule 7 than under Schedule 3; perhaps more importantly, many products classified under Schedule 7 are not protected under MFA and are therefore eligible for GSP treatment.

In T.D. 77-210, the Treasury Department severely limited the application of the *Canadian Vinyl* case, noting that the "United States Customs Service does not agree with the ruling of the Court," and stating:

"We believe that the merchandise which was the subject of the Court's ruling is properly classifiable under the provisions for textile fabrics, coated or filled with rubber or plastics material, or laminated with sheet rubber or plastics, or man-made fibers, in either [TSUS 355.81 or TSUS 355.82]."

A more recent decision by the Court of Customs and Patent Appeals has further expanded the judicial erosion begun in the *Canadian Vinyl* case. In *United States* v. *Elbe Products Corp.*, 655 F.2d 1107 (C.C.P.A. 1981), the court held that "rolls of flexible nonwoven fabrics or manmade fibers coated or filled with a plastic binder and having a plastic coating on one surface" were properly classifiable under TSUS 771.42 (Part 12 of Schedule 7). The government argued that this coated fabric was properly classified under TSUS 355.25 (Part 4C of Schedule 3), a position consistent with long established practice. Noting that headnote 1(vii) of subpart 4C of Schedule 3 excludes "articles specially provided for in schedule 7 or elsewhere," the court found that this merchandise was included in Schedule 7 and therefore, excluded from Schedule 3, subpart 4C.

The government has not appealed this decision and, as a result, the U.S. Customs Service has ruled that T.D. 77-210 has been superseded by *Elbe Products*.

"[V]irtually all imitation leather materials consisting of a textile fabric that has been coated or filled, or laminated, with rubber or plastics material, where a textile presence is not readily apparent, is now classifiable in Schedule 7, TSUS."

U.S. Customs Service, Headquarters Ruling Letter 069768 PR (March 25, 1982). Again, the result is that materials for which Congress has determined a substantial duty should apply are entering the country with little or no duty actually assessed.

III. NEED FOR RELIEF

Congressional action to restore the long-standing tariff treatment of coated fabrics is urgently needed. If this reclassification is allowed to stand, import penetration will severely injure a domestic industry which produced coated textile fabrics valued at $1.1 billion in 1981. U.S. International Trade Commission Publication 841, Summary of Trade and Tariff Information: Coated, Filled, Bonded and Laminated Fabrics, October, 1982. The U.S. coated fabrics industry, which is already experiencing declining production, sales, profitability and employment, can ill afford further setbacks due to this misinterpretation of the Tariff Schedules, an interpretation clearly contrary to the intent of Congress.

The new Tariff Schedules of the United States, compiled after a comprehensive study by the Tariff Commission (now known as the International Trade Commission), became effective on August 31, 1963. Subsequently it became apparent that technical corrections to the new Tariff Schedules would be necessary. This correc-

[2] The GSP was enacted under Title V of the Trade Act of 1974 and provides for duty-free treatment of specified eligible articles imported directly from designated beneficiary developing countries.

tive action was explicitly limited to instances where "through oversight or inadvertence or lack of information, errors were made in the new schedules or [where] clarifying language might be necessary." H.R. REP. NO. 342, 89th Cong., 1st Sess. 2 (1965) [hereinafter House Report]. As a result, legislation was drafted to make technical corrections that met these explicit criteria; that legislation was enacted as the Tariff Schedules Technical Amendments Act of 1965. It is obvious from the stated purpose that it was not the intent of Congress in enacting the 1965 changes to alter in any way the prior treatment of any articles subject to the Tariff Schedules. The technical amendments were limited to correcting certain errors brought about by the adoption of the new Tariff Schedules. House Report at 3.

Section 13 of the House bill (H.R. 7969) dealt with coated fabrics. The House's provision was not altered and was enacted into law as Section 15 of the 1965 act. The House Report described the treatment of coated fabrics under the new Tariff Schedules as follows:

"In the new tariff schedules, all woven and knit fabrics covered with rubber or plastics (except foam or sponge sheet) are specifically provided for in items 355.65–355.85 in subpart C, part 4, schedule 3. Schedule 3 headnote 2(a)(iv) includes such fabrics in the definition of "textile materials." Thus, *regardless of whether the textile fabric or the rubber or plastics is the component of chief value*, the fabric is provided for in items 355.65–355.85, and the fabric as a whole is regarded, for the purposes of the tariff schedules, as a textile material when it is used for making other articles.

"The various articles made from the rubber- or plastic-covered fabrics are provided for elsewhere in schedule 3 and in schedule 7." House Report at 11 (emphasis supplied).

This language makes it clear that Congress intended to draw a distinction between coated fabrics and finished articles made from coated fabrics. The House Report clearly expressed Congress' intention in enacting the Tariff Schedules: coated fabrics were intended to be classified in Schedule 3, Subpart 4C.

In order to further clarify its intent, Congress made several changes under the 1965 Act. First, Congress added Headnote 2(c) to Subpart C headnotes to Part 4 of Schedule 3. Headnote 2(c) was added to "established objective weight distinctions for determination of the relative quantities of the textile fibers and of the rubber or plastics material in the fabrics in question . . . by affirmatively stating that such items [items 355.65–355.85 of Part 4C of Schedule 3] cover products weighing not over 44 ounces per square yard without regard to the relative quantities of the textile fibers and the rubber or plastic material." House Report at 11.

H.R. 1910 is designed to make technical amdendments to the Tariff Schedules to effectuate the intent expressed by Congress in 1965. Section 2(b) of H.R. 1910 would insert additional language in Headnote 2(c) to make it clear that the rubber or plastics used to coat or laminate the textile fabrics are not to be taken into account in determining whether the textile material, or the rubber or plastics are the component of chief value under General Headnote 10(f) of the Tariff Schedules. This change will make it explicit that for products weighing not over 44 ounces per square yard, classification under Part 4C of Schedule 3 shall be made without regard to relative quantities or values of the textile material and the rubber or plastics material.

Second, the 1965 Act inserted subparagraph (vi) of Headnote 2(a) of Schedule 3 to make it clear that although coated fabrics provided for in Part 4C of Schedule 3 were "textile materials," under subparagraph (iv) of Headnote 2(a), finished products such as "simulated leather suitcase and gloves made of a 'supported' vinyl bear[ing] no outward resemblance to a textile product" were classifiable elsewhere in the Tariff Schedules but only to the extent provided for in Headnote 5 of Schedule 3. House Report at 12. The provisions of H.R. 1910 will not alter this distinction between the treatment of fabrics and finished articles made from fabrics that are provided for in Part 4C of Schedule 3.

Third, the 1965 Act added Headnote 5 of Schedule 3 in order to make the distinction between the treatment of coated fabrics and finished articles made from coated fabrics. Section 1 of H.R. 1910 would modify Headnote 5 by adding subparagraph (b) which explicitly places a limitation on Headnote 5 by stating that the treatment of fabrics provided for the Part 4C of Schedule 3 shall not be affected by Headnote 5 and that Headnote 5 does not apply to such fabrics. This change merely makes explict the intention of the 1965 Act, without affecting the classification of finished articles made from fabrics provided for in Part 4C of Schedule 3.

H.R. 1910 is intended to clarify and make explicit in the language of the Tariff Schedules the intention of Congress in enacting the 1965 Act. The decisions of the Court of Customs and Patent Appeals in the *Elbe Products* and *Canadian Vinyl*

cases are directly contrary to the intention of Congress expressed in the House Report on the 1965 Act. Those court decisions are based upon subparagraph (vii) of Headnote 1 to Part 4C of Schedule 3, a subparagraph which is not necessary to the proper classification of the items involved. Since subparagraph (vii) has resulted in the misinterpretation of the intent of Congress as expressed in the Tariff Schedules, section 2(a) of H.R. 1910 would delete that subparagraph. H.R. 1910 also adds a new Headnote 2 to Part 12 of Schedule 7 to make it absolutely clear that coated fabrics provided for in Part 4C of Schedule 3 are not described in Part 12 of Schedule 7 as the court held in the two cited decisions.

The sole effect of H.R. 1910 is to overrule these two court decisions. The bill will make a very narrow correction to the Tariff Schedules in order to effectuate the stated intention of Congress, namely, that coated fabrics are provided for in Part 4C of Schedule 3.[3]

Action is necessary to reverse this reclassification which results in lower duties or the elimination of duties on imported coated fabrics. As noted above, fabrics imported under Schedule 3 receive a duty of up to 13.9 percent ad valorem plus 10 cents per pound, while those reclassified as almost wholly of rubber or plastic under Schedule 7 are assessed duties ranging from 3.7 percent to 5.3 percent. In addition, when fabrics are reclassified under Schedule 7, imports are not subject to the protection of MFA and many imports from developing countries become eligible for duty-free entry to this country under the GSP.

The prospect of domestic injury is real and undeniable. Many foreign companies located in Beneficiary Developing Countries such as Korea and Hong Kong—

(1) Have tremendous labor cost advantages over their domestic counterparts;

(2) Are already producing coated fabrics and coated fabric products in significant quantities; and

(3) Now, as a result of the *Canadian Vinyl* and *Elbe Products* decision, may be able to export a greater number of coated fabrics without duty under the GSP.

The domestic industry, able to compete with imported products when those products are assessed the appropriate duty under Schedule 3 classifications, faces the prospect of losing entire markets to imports classified under Schedule 7.

At stake are the jobs of approximately 50,000 American workers involved directly in the domestic manufacture of coated textile fabrics. Unemployment in the textile industry which is currently at 13.4 percent, well above the national average, would surely rise even further. If enacted, H.R. 1910 will prevent the loss of significant numbers of jobs by those employed in the affected industries.

IV. MECHANICS OF H.R. 1910

H.R. 1910 is a narrowly drafted bill which would do no more than reestablish the tariff treatment which coated fabrics have traditionally received. The International Trade Commission (ITC) issued a report on similar proposed legislation introduced in the last term of Congress (see H.R. 7118 and S. 2859). The staff of the ITC reviewed H.R. 1910 before its introduction on March 3, 1983. We therefore believe that the ITC will support this legislation and, based on previous contact with the other responsible agencies in the executive branch, we expect that the bill will be viewed by those agencies as necessary to make the classification of these articles under the Tariff Schedules consistent with the intent of the Technical Amendments Act of 1965. That act added headnote 2(c) to subpart 4C, Schedule 3, with the intent of classifying fabrics weighing not over 44 ounces per square yard under subpart 4C of Schedule 3. H.R. Rep. No. 342, 89th Cong. 1st Sess. 11-12 (1965).

H.R. 1910 accomplishes the following:

a. Section 1 makes clear that fabrics classifiable under Part 4C of Schedule 3 may not, pursuant to the language of Headnote 5 of Schedule 3, be classified under Schedule 7.

b. Section 2 deletes subparagraph (vii) of Headnote 1 of Part 4C of Schedule 3, and provides that the determination of whether an article is "of textile materials" and therefore classifiable under Schedule 3 will be made without regard to the presence or absence of non-textile coating, filling or laminating substances;

c. Section 3 makes clear that the coated fabrics at issue are, contrary to the *Canadian Vinyl* and *Elbe Products* holdings, not described in Schedule 7.

As drafted, the bill is narrow in application and would achieve no more than its intended result, namely, the correction of a misinterpretation of the Tariff Schedules resulting from the *Canadian Vinyl* and *Elbe Products* decisions. The bill will

[3] This is supported by the stated intention of Congress in enacting both the new Tariff Schedules and the Technical Amendments Act of 1965.

not alter in any way the changes which were intended by the Tariff Schedules Technical Amendments Act of 1965.

Reestablishing the classification of these coated fabrics under Schedule 3 will also prevent other unintended consequences. Classification of these coated fabrics under Schedule 7 removes covered articles from the Multifiber Arrangement (MFA) and related textile negotiations. Classification under Schedule 7 is also more likely to result in classification under a TSUS number that is eligible for GSP classification, thereby circumventing the normal procedures for determining eligibility for GSP.

CONCLUSION

The issue for your consideration is clear: Does Congress desire to restore coated fabrics to the Schedule 3 classification intended under existing law, or does Congress wish to sacrifice this established domestic industry with the related jobs and tax revenues to foreign competitors? Given the stated intention of Congress in adopting the Tariff Schedules and the 1965 technical amendments, there is no basis for opposition to this legislation since it also does nothing more than make technical amendments to clarify the express intent of Congress. Those who may oppose this legislation desire only to profit unfairly from a lower Schedule 7 tariff, which tariff has resulted from erroneous court decisions, at the expense of an established domestic industry.

Chairman GIBBONS. The passage of this bill would have the effect of increasing the tariff and putting it under a quota; is that right?

Mr. MAGENHEIMER. No; the effect of the bill would be to classify these products as textiles. In some cases it would mean that the duty on them would increase; in some cases it would change very little.

Chairman GIBBONS. And it would put them under the——

Mr. MAGENHEIMER. But it would reclassify them as textiles and not as plastic.

Chairman GIBBONS. Would it put them under the textile agreement?

Mr. DEESE. Mr. Chairman, could I respond to that question? It would make them as textiles eligible to be subject to a quantitative restraint, but at present there would be no quota that we know of that would apply to these articles even if they were classified as textiles.

Chairman GIBBONS. Up until the case was decided, were these items classified as textiles?

Mr. MAGENHEIMER. That is correct, yes, sir.

Chairman GIBBONS. What you are in effect asking us to do is reverse a case, some case law on the situation. Is that what you are asking us to do?

Mr. MAGENHEIMER. Yes, sir, to go back to the classification that we feel Congress meant originally.

Chairman GIBBONS. Were you a party to the case?

Mr. MAGENHEIMER. No, sir.

Chairman GIBBONS. So you were a beneficiary of the law prior to the case. When the case was tried you were not a part of the case. Now you are seeking, in effect, to have the case reversed, the ultimate impact of which would be to raise some duties and perhaps classify this material as a fabric which perhaps at some time in the future would be subject to the fabric agreement?

Mr. MAGENHEIMER. Yes, sir.

Chairman GIBBONS. All right; fine. That is all the questions I have.

Mr. Pease?

Mr. PEASE. Mr. Chairman, thank you.

Duties were being paid on these products prior to the court decision?

Mr. MAGENHEIMER. Yes; that is correct.

Mr. PEASE. They have not been paid since the court decision, or is that——

Mr. MAGENHEIMER. Duties have been paid, but at a considerably lower rate because of the fact that they are called plastic sheeting instead of textiles.

Mr. PEASE. If the Customs Court ignored the intent of Congress in one instance, what makes you think they would not ignore us again if we passed this bill?

Mr. MAGENHEIMER. I think that concerns the way the bill has been written.

Mr. DEESE. Congressman Pease, the Customs Court found that there was some ambiguity in the headnotes to both schedule 3 and schedule 7 of the tariff schedules. The bill, as we see it, would remove that ambiguity, and in light of the language in the House report would remove that ambiguity in favor of what was the intention of Congress back in 1965.

I would point out that the staff at the International Trade Commission has reviewed the language of the bill and has basically agreed that it will do nothing more than clarify that ambiguity and in fact permit the Customs Service to apply the tariff schedules in the manner that was meant by Congress and would do nothing more than that.

Mr. PEASE. Thank you.

Mr. GUARINI. Mr. Jenkins.

Mr. JENKINS. Mr. Chairman, thank you.

If I understand it correctly, the laminated product industry is a sizable industry in this country.

Mr. MAGENHEIMER. Yes, sir.

Mr. JENKINS. It is somewhere over $1 billion a year. Is that correct?

Mr. MAGENHEIMER. The coaters and laminators employ over 50,000 people, and it is over $1 billion a year.

Mr. JENKINS. All of these textile materials were classified under schedule 3 before this decision by the Customs Court.

Mr. MAGENHEIMER. That is correct.

Mr. JENKINS. And the tariffs in those, or the duties, range anywhere as high as 12 or 13 percent?

Mr. MAGENHEIMER. Yes, sir.

Mr. JENKINS. When this Customs Court rendered its decision a few months ago, it had the effect of transferring all of those imports from schedule 3 into schedule 7. This meant that they would come in at a duty rate of 3 to 4 percent and in many cases at zero because of the GSP. Is that correct?

Mr. MAGENHEIMER. Yes, sir.

Mr. JENKINS. We are not talking in this situation of a minor industry. It is a sizable part of the textile industry, is it not?

Mr. MAGENHEIMER. Yes, sir. As a matter of fact, I feel the impact is even greater than just on the 50,000 employees and the $1 billion industry, because we purchase our raw materials from domestic yarn producers and base fabric producers, which is the textile industry here. If the imported products come in, they will not be

buying their base fabrics or raw materials from domestic producers, so we will also impact that portion of the textile industry which is beyond our own industry.

Mr. JENKINS. Thank you, Mr. Chairman.

Chairman GIBBONS. Fine.

We will next ask the other witnesses to come up, and perhaps we may have to ask you both to come back to the table at the same time, so we can thoroughly understand this matter.

Our next witnesses are the Brunswick Corp. and the Ad Hoc Committee of American Vinyl Distributors & Finished Vinyl Goods Manufacturers.

Let us proceed with the Brunswick Corp.

STATEMENT OF ROBERT E. DORSEE, VICE PRESIDENT OF MANUFACTURING, BRUNSWICK DIVISION, BRUNSWICK CORP.

Mr. DORSEE. My name is Bob Dorsee. I am vice president of manufacturing for the Brunswick Division of the Brunswick Corp. Our division, being part of a corporation that has 27 plants in 16 States, we employ about 17,000 people in this country. Our division, amongst its many bowling, billiards, and golf products, manufactures a line of bowling bags, golf bags, and sport bags and luggage. You see a sample of a golf bag in front of you which is made of the material in question, expanded vinyl.

Chairman GIBBONS. That is a bowling bag, is it not?

Mr. DORSEE. Yes, sir. I am sorry. [Laughter.]

We compete primarily as manufacturers of this finished good with people in Mexico and Taiwan. Those manufacturers import into this country, in some cases finished completely, in some cases for minor finishing after import.

U.S. manufacturers of the material from which this is made are not competitive with the foreign manufacturers with whom we deal. In fact, even if this bill was passed they would not be competitive. Therefore, we would lose all the way around to the Mexican and Taiwanese manufacturers.

Our plant is in Eminence, Ky. We have 200 people there, a small town of 3,000. The economy is very dependent upon our operation. We are one of the few manufacturers who has been able to halt the tide, if you will, to manufacture in Mexico and Taiwan.

We are very much committed to that, not only in our division—I am sorry that Mr. Jones is not here, because we have done some similar things as Zebco in Tulsa. And I think that we ask you to very strongly oppose this bill for that reason.

[The prepared statement follows:]

STATEMENT OF ROBERT E. DORSEE, VICE PRESIDENT OF MANUFACTURING, BRUNSWICK DIVISION, BRUNSWICK CORP.

Mr. Chairman and Members of the Sub-committee: My name is Robert Dorsee. I am Vice-President—Manufacturing of the Brunswick Division of the Brunswick Corporation. I am here today on behalf of my company to testify in opposition to H.R. 1910, a proposal to change the tariff treatment of expanded vinyl. For those not familiar with the Brunswick Corporation, we are a mult-divisional manufacturer serving worldwide markets in the Technical, Marine Power and Recreation fields. In the United States, we have 27 manufacturing facilities in sixteen states employing approximately 17,000 people. Our sales exceed one billion dollars per year.

For the purpose of this hearing, I would like to concentrate my remarks on the Brunswick Division, the nature of its business, and most especially those products

we produce using expanded vinyl. I will also comment briefly about the technical qualitites of expanded vinyl, the impact the proposed reclassification would likely have on our business, and problems we confront when we attempt to purchase expanded vinyl from domestic sources. Finally, and possibly most significantly, I would like to tell you about Brunswick's strong commitment to producing its products in the United States.

The main responsibility of the Brunswick Division, which comprises approximately ten percent of the Corporation, is the production of a complete line of bowling equipment, billiard tables and other game tables. Included among our products are wide offerings of bowling bags, golf bags, sportbags and sport luggage. All of these bags are currently manufactured in our Eminence, Kentucky, plant and are made from vinyl and non-vinyl based raw materials purchased from both domestic and offshore sources.

The purpose of H.R. 1910 is to reclassify expanded vinyl from its present Customs classification as a plastic to a classification as a textile. In fact, expanded vinyl consists primarily of petroleum based plastic materials, 83 percent to be exact. The leather-like characteristics of these materials are perceived as a value enhancement by our customers. Conversely, the use of ordinary textiles would significantly reduce the perceived value of our finished products. For this reason, vinyl materials are differentiated in the trade from textiles.

I submit to the Committee that passage of this legislation will have a devastating effect on the finished vinyl goods manufacturers of the United States. Enactment of the legislation will result in an increase in the tariff assessed on expanded vinyl from the present rate of 5.1 percent to a rate as high as 13 percent plus 10 cents a pound. In the case of the Brunswick Division, this increase in the costs of its raw materials, could result in a decision by the corporation to close its Kentucky plant, leaving approximately 200 workers unemployed. All of the products, including vinyl sportbags produced at this factory, face extreme competition in the retail market. Brunswick and other U.S. manufacturers complete with lower cost finished goods imported from the Far East, as well as bags sewn in Mexico and brought into the United States for finishing. With such competition, we cannot pass additional costs on to the retailer. As one example, one of our more popular bowling bags retails at $24.95, a very critical price point. We estimate that the proposed change in the classification of imported expanded vinyl would result in an addition of $0.75 to $1.00 to that retail price, breaking the $25 price point. Our competition imports to the U.S. a similar product sewn in Mexico, which it offers at a similar price. We have no doubt that the additional costs attributable to the passage of H.R. 1910 will make the Brunswick products less competitive.

Additionally, the proponents of H.R. 1910 cannot offer one convincing reason why Brunswick should be subjected to paying this additional duty. The U.S. manufacturers of expanded vinyl no longer compete for Brunswick's business. We simply cannot pay the prices domestic sources charge and still remain profitable. Additionally, offshore sources offer us significantly better quality products than U.S. suppliers. The additional cost to Brunswick of purchasing offshore expanded vinyl, which will result if H.R. 1910 is passed, will not result in increased purchases of expanded vinyl from domestic sources, rather it will force Brunswick to discontinue manufacturing its product line of sports bags in the United States.

In fact, it is only because Brunswick has been able to purchase offshore raw materials at reasonable prices that it has been able to manufacture goods in the United States at a price that competes with imported finished goods.

Until 1982, we were purchasing a two-ball bowling bag made of expanded vinyl from Taiwan. We began producing that product in our Kentucky plant, despite the higher standard cost, as part of our effort to increase volume and better absorb overhead. We are also actively developing the capability of competing for the low price point golf bag market through production at our Kentucky facility. This market is now served almost exclusively by offshore manufacturers.

In addition, we have actively resisted pressures during the past few years to relocate our manufacturing operation to a Mexican border plant. I have personally been involved in such an experiment in our Zebco Division. In that case, we decided to continue producing our goods in our two plants in Tulsa, Oklahoma.

In other words, we're committed to retaining jobs in the United States if at all possible. We want to beat the competition that comes from Mexico and Taiwan by producing here in the U.S. However, we can only do so if we can purchase our raw materials at prices that keep our finished goods competitive in the marketplace.

We, therefore, urge that this committee oppose the legislation at hand and retain the classification of expanded vinyl as a plastic. We ask this especially on behalf of our 200 people in Eminence, Kentucky, and on behalf of our future new employees.

Thank you, Mr. Chairman.

Chairman GIBBONS. Were any of you the individuals that brought the suit that changed the tariff classification? Who did? Did either of you at the table?

STATEMENT OF ROYAL DANIEL III, COUNSEL, AD HOC COMMITTEE OF AMERICAN VINYL DISTRIBUTORS AND FINISHED VINYL GOODS MANUFACTURERS

Mr. DANIEL. Mr. Chairman, I can answer that. I am Royal Daniel.

Chairman GIBBONS. Go ahead, Mr. Daniel. If you have a separate statement, we ought to let you go ahead first. Then we will come back to my question.

Mr. DANIEL. Mr. Chairman, I am Royal Daniel III, an attorney with the Washington law firm of Arter, Hadden & Hemmendinger, and I am here to present a statement on behalf of an ad hoc committee of American Vinyl Distributors and Finished Vinyl Goods Manufacturers.

We are in opposition to H.R. 1910. The members of this ad hoc committee represent a broad spectrum of American companies, most of them very small businesses, that distribute or use imported PVC vinyl. Also included in this committee are major sporting goods manufacturers such as AMF/Head and the Brunswick Corp., luggage manufacturers such as Trojan Luggage of Tennessee and Kentucky, and furniture manufacturers such as Shelby Dinettes of Houston, Tex., are also in the group. A number of small businessmen, mainly involved in the automotive services industry are also active.

Although each of these various companies may have different reasons for opposing this legislation, they share a common fear, that its enactment will hurt them. It raises their costs. It would cause them to lose sales, create layoffs, and perhaps force some of them out of business.

Mr. Chairman, you may ask how a classification bill can cause such ruinous consequences. In truth, the ad hoc committee respectfully suggests that H.R. 1910 should be viewed not as it appears on the subcommittee's press release, as a classification bill, but it should be viewed as a duty increase bill, because that is the relevant result of its enactment and the reason, we assume, for its introduction.

This bill proposes to modify the headnotes to the tariff schedules to correct what has been called on the Senate side an anomaly. In truth, the measure would increase the tariff protection for PVC vinyl by forcing this plastic product to be classified as a textile. And the sponsor of this legislation, Congressman Shannon, has so stated in the extension of his remarks in the Record.

The plastic product at issue is neither a textile nor does it compete with textiles. It is used either as a plastic or as a substitute for leather, to reupholster automobile seats, to make furniture, luggage, shoes, and sporting equipment. In fact, in the trade it is referred to very often, Mr. Chairman, as PVC vinyl sponge leather.

The ad hoc committee wishes to present two points in justification of its opposition: that it is objectionable for commercial rea-

sons; and the bill is objectionable for what might be called legislative or institutional reasons.

The commercial reasons are as follows: H.R. 1910 would not increase sales nor profits of the companies seeking the measure. It is a misconception that American firms would receive more orders if this bill were to pass.

First, the American firms that rely on imported raw materials would become uncompetitive with imported finished goods. Mr. Dorsee of Brunswick has just testified to this point. It is also true with respect, for example, to AMF/Head, another manufacturer of sporting goods equipment, in this case tennis racket covers. They inform me that they are able to purchase finished tennis racket covers from abroad at a lower price than that they would be charged for the raw materials in the United States. The only way that they could compete with the offshore finished goods suppliers is to purchase their raw materials offshore as well.

A second reason why greater tariff protection for the American PVC vinyl manufacturers would not result in more sales is that much of the imported material fills voids left unattended by the American firms. They are simply uninterested.

The automobile service industry illustrates this problem. American manufacturers have traditionally refused to produce the materials sought by this industry, such as replacement vinyl in the styles and colors used in automobiles in the late sixties and seventies. There is insufficient volume for each style and color to attract the American firms. Consequently, the only way that automobile reupholsterers can service these cars is by importing their raw materials from the smaller and more specialized offshore companies.

Another example is the acquisition by Uniroyal of a competitor's line of vinyls. Instead of servicing the two lines simultaneously, Uniroyal absorbed the best-selling styles into its popular and more profitable Naugahide line and simply discontinued the others, leaving many distributors and jobbers without a domestic source of supply.

Now, even if these commercial consequences were not present, Mr. Chairman, H.R. 1910 should not be enacted, for reasons that I will call solely institutional ones. The Congress has already resolved the problem in the existing tariff schedules. The courts have applied a commonsense construction to the language, and proponents of the bill express their dislike for the present law by calling it an anomaly or by saying that the courts are eroding the traditional classification or the intent of Congress on these products.

The plain truth is that the proponents want to reverse the court cases and modify the legislation because the tariff on plastics would be higher if you called the plastics a textile. And just saying that there is a public interest in making the change does not make it true.

The proposed legislation would create an anomaly. Under the law, PVC vinyls would become textiles and not plastics unless they entered the United States as finished goods, in which case the reverse would be true. It is submitted that Congress should not call an article of commerce something that it is not, simply to raise the level of protection on it.

If the domestic industry is the victim of unfair foreign competition, Congress has provided for appropriate remedies. If the industry deserves more protection because it is simply uncompetitive, even as against fair competition, then a forthright tariff measure might be considered.

But to achieve the result by calling a plastic a textile would be a step backward. It would be a precedent for further complication of the tariff schedules, and without serving any public purpose.

For these reasons, the ad hoc committee of American Vinyl Distributors and Finished Vinyl Goods Manufacturers respectfully urges this committee not to include this bill in any tariff measure and otherwise not to deal favorably with it.

Mr. Chairman, I have as part of my formal statement a list of the members of this ad hoc committee and I request that that be made a part of the record.

Chairman GIBBONS. Certainly, we will be glad to make it a part of the record.

[The material referred to follows:]

MEMBERSHIP OF THE AD-HOC COMMITTEE OF AMERICAN VINYL DISTRIBUTORS AND FINISHED VINYL GOODS MANUFACTURERS

Walt's Trim Supply, Springfield, Mo.
National Fabrics Co., Kansas City, Kans.
Phillip Upholstery, Springfield, Mo.
Moss Seat, Tulsa, Okla.
Emeco Industries, Hanover, Pa.
Marlin Industries, New Berlin, Pa.
Wood-McCaw & Co., Pittsburgh, Pa.
Grubb & White, Philadelphia, Pa.
Page Foam Cushion, Inc., Johnstown, Pa.
Textile Commission, Philadelphia, Pa.
Gibson Trim, Oklahoma City, Okla.
The Seat Shop, Durante, Okla.
Holt Upholstery, Tulsa, Okla.
Tulsa Trim Supply, Tulsa, Okla.
Nautical Interiors, Fort Worth, Tex.
Spradling Vinyls, Inc., Dallas, Tex.
Southwest Fabrics, Dallas, Tex.
Cooke Supply, Fort Worth, Tex.
Rochester Elton, Rochester, N.Y.
Vanguard Products, Berkley Springs, W. Va.
C. G. Spradling & Co., Trussville, Ala.
AMF Head Division, Boulder, Colo.
Brunswick Corporation, Eminence, Ky.
NASCO, Springfield, Tenn.
Trojan Luggage, Memphis, Tenn.
Farber Brothers, Memphis, Tenn.
Arthur Fulmer Co., Memphis, Tenn.
Shelby Dinettes, Houston, Tex.
Waco Trim Supply, Waco, Tex.

Mr. DANIEL. For the edification of the committee, I have some swatches, samples of the product we are talking about, which I might circulate and you can see for yourselves the textile component and the plastic component.

Chairman GIBBONS. Fine. We would be happy to examine those.

Mr. Jenkins.

Mr. JENKINS. Thank you, Mr. Chairman.

Let me ask first the Brunswick representative, Mr. Dorsee. You indicate in your testimony, as I understand it, that if this schedule is changed it is going to cause your company severe difficulties as far as employment and that you might have to close a plant in Kentucky, I believe?

Mr. DORSEE. That is correct.

Mr. JENKINS. How long has this new change been in effect under this court decision? How long have you been operating under the schedule 7 versus the schedule 3?

Mr. DORSEE. We began the importation in late 1979.

Mr. JENKINS. Were you paying based upon schedule 3?

Mr. DANIEL. Mr. Jenkins, there is a confusion, because although the court cases are dated before that, the Customs Service would

give schedule 7 treatment only if specifically asked and challenged. So even though his importation began after the cases were decided and schedule 7 treatment was appropriate, it may still be that he got schedule 7 or schedule 3, depending upon the specialist in question.

So I do not believe Mr. Dorsee knows and it could have been either one.

Mr. JENKINS. Has anyone yet benefited from the change from schedule 3 to schedule 7?

Mr. DANIEL. Those that import vinyl from countries that do not receive GSP treatment benefit, in that the duty in schedule 7 is lower than it is under the corresponding provision in schedule 3.

Mr. JENKINS. Before this case was decided by the Customs Court you were in operation, weren't you?

Mr. DORSEE. Yes, sir.

Mr. JENKINS. And you were operating under the law that then existed?

Mr. DORSEE. Yes, sir.

Mr. JENKINS. Wasn't this a schedule 3 situation?

Mr. DORSEE. I believe so, sir. I think that we, however, were in a position of being under attack from increasing competition in Mexico and Taiwan. I think you will agree that there has been a very significant movement in that direction, and it is certainly our aim to halt and reverse that trend. And this is our intention here today.

Mr. JENKINS. I think there is some confusion as to whether or not you were operating under schedule 3 up until then. I thought that the duty itself has been on only since last August, has it not?

Mr. DORSEE. I think, as I stated, there is a major differential between the base cost, or selling prices, rather, for the imported goods versus U.S. goods.

Mr. JENKINS. I understand that. You constantly have problems with imports.

Mr. DORSEE. And I have to assume that our people have been purchasing at the most competitive level of value, quality, price, service, and they have been having to work under whatever laws existed at that time. It is my understanding that these laws have changed relatively often.

Mr. JENKINS. In reading the language from that report in the 1965 act, and I think this was quoted by Mr. Shannon when he introduced the bill, under section 13 of the House bill, which dealt with coating fabrics:

> Thus, regardless of whether the textile fabric or the rubber or plastics is the component of chief value, the fabric is provided for in items 355—and so forth—and the fabric as a whole is regarded for purposes of the tariff schedules as a textile material.

Now, you disagree?

Mr. DANIEL. Well, Congressman Jenkins, it is a question of whether you agree with the way the customs court and the U.S. Court of Customs and Patent Appeals resolved the possible conflicting interpretations of the two schedules.

If you basically have a textile product that has a component part of it that is made of something other than a textile, that provision says you disregard the nontextile component and follow the classi-

fication of the fabric itself to determine its classification and duty status. Schedule 7 says that if you have an article that is wholly or almost wholly of plastics, then it is to be classified as a plastic.

What the customs court said was that when you get a product that is 80 percent made of PVC vinyl plastic and 20 percent of nonplastic components, then the operative language is not that that is found with respect to schedule 3 at all, but it is the one in schedule 7.

Mr. JENKINS. So their decision disregarded the House language as it pertained to schedule 3 provisions that I have just read, and I will read again: "Regardless of whether the textile fabric or the rubber or plastics is the component of chief value——"

Mr. DANIEL. Yes, sir, they disregarded it, because they started with the proposition they did not have a textile fabric before them, that what they had was an imitation leather made of plastic, and the fact that it had nonplastic components——

Mr. JENKINS. Were they also under the assumption that there were no textile components in that particular product?

Mr. DANIEL. No, sir. They were trying to find the dividing line between a plastic that has some textile in it and a textile that has some plastic in it. And if you look at the samples, you can see that the textile portion of most of this kind of a product is—it has a spongy inner layer and an outer layer of plastic, and then the textile mesh on the back.

And they said that if you are in this range of 80 percent to 100 percent plastic——

Mr. JENKINS. We have no problem with the 100-percent plastic.

Mr. DANIEL. Well, you do not have a problem with the 100-percent plastic unless you want to do away with schedule 7 altogether.

Mr. JENKINS. But I want you to know that I have no problem with 100 percent.

Mr. DANIEL. Then I think we have the same problem the court faced. I think it is a trifle unfair to characterize the court as disregarding Congress. In fact, they were very careful to try to implement what Congress had in mind, and you have two classifications.

And if any plastic winds up in schedule 3 because there is some textile in it, then you are faced with the function of what the "wholly or almost wholly of plastics" means in schedule 7. And they drew the line at saying, well, if it is clearly intended not to be a textile or to compete with a textile and it is almost wholly of plastic, the fact that it has got a little textile will not throw it back into schedule 3.

Mr. JENKINS. How long has the duty been on?

Mr. DANIEL. Well, I assume that it goes back to the Tariff Act of 1930. They are both conventional tariff provisions.

And in our view, incidentally, that is one of the reasons for the confusion, because in the early days the plastic was a kind of—in the days of oilcloth and then later when vinyl came in, the textile was more important than the plastic. But now, with the technologies that are available the textile becomes simply something to give the plastic a support or a certain rigidity or tensile strength, and insofar as the actual use of the product is concerned the textile component is rather incidental.

Mr. JENKINS. How long has it been classified under schedule 3?

Mr. DANIEL. That has been classified under schedule 3 since the product was first imported, which I assume was some time between 1950 and 1960 when it first came in.

Mr. JENKINS. And now under the court decision it is under schedule 7, is that correct?

Mr. DANIEL. Well, it is if it meets the criteria of the decisions, and now the customs ruling, which state that if it is a leatherlike product, it is an imitation leather or plastic, and it is almost wholly of plastic——

Mr. JENKINS. When did the court decision come into effect?

Mr. DANIEL. The court decision, the first one was decided, at least in the Court of Customs and Patent Appeals, in 1977. I believe 1976 was when the Customs Court decided the first case, and that was with respect to patent leather. Canadian Vinyls was importing a product that was used in the shoe industry, and they said, this has nothing to do with the textile industry at all, it is an imitation patent leather and should be classified as a plastic.

Mr. JENKINS. Thank you, Mr. Chairman.

Chairman GIBBONS. Who started the lawsuit? Apparently none of you were ever parties to the lawsuit. This affects all of you and none of you are parties to it.

Mr. DANIEL. Mr. Chairman, the first lawsuit was brought by the importer of patent leather, imitation patent leather from Canada into the United States for use in the footwear industry, and the second was brought by Elbe Products, which is essentially, it is in many various lines of the sale of items such as anything from notebooks all the way to other consumer items. In fact, this tariff provision has affected the lives of everybody, including those that we mentioned, specifically the automobile industry. As a matter of fact, on the back of these swatches you will see the names and model years of cars. These are all imported, and they represent the ones that say Ford, 1978, and so forth, represent materials that are unavailable in the United States if you wanted to match the original upholstery in your automobile. That is one sector that is affected.

The others, obviously, are the luggage and footwear industries.

Mr. JENKINS. Mr. Chairman, let me ask one question.

Chairman GIBBONS. Go right ahead; yes, sir.

Mr. JENKINS. The point I was trying to make a few moments ago—and I do not know if I have all of the facts—but as I understand it, customs has only commenced to implement this last summer. It has taken that long, since 1979, to get down to the customs situation. Is that correct?

Mr. DANIEL. That is correct; yes, sir. Well, I believe it was March, but it has been very recently that they have universally applied the decisions without your having to go in and specifically insist on it.

Mr. JENKINS. Were you not relying upon any schedule 7 classification when you commenced your plant in Kentucky? You have been operating under the other set of rules, have you not?

Mr. DORSEE. I would assume so, yes. However, again, we have been competing against an area which is not governed by such rules.

Mr. JENKINS. I understand that this decision would be helpful to you. Did you not start your plant and make your investment back in 1977 or whenever relying upon a possibility of a schedule 7 classification?

Mr. DORSEE. That is correct. You are correct.

Mr. DANIEL. May I make a clarification, Mr. Jenkins?

Mr. JENKINS. Yes.

Mr. DANIEL. As I understand it, the plant started using domestic raw materials and that importation was not a consideration; and second, that the principal supplier of this merchandise from overseas received GSP treatment regardless of its classification in schedule 7 or schedule 3, so that it is duty free at the moment, which may explain why many of the purchasers have not been insisting on the correct classification since it has no immediate impact on them.

However, the proponents of the legislation make it very clear that the GSP status of this merchandise will also be very much brought into doubt, and one of the reasons for the concern about the users of the raw material is that if in fact it should not be considered a textile, then its GSP status should be maintained if the GSP is extended.

Mr. JENKINS. I was just under the impression from reading your statement that you were relying upon this and suddenly this bill would increase the duties and put you in an uncompetitive situation. But you have been operating that way anyway.

Mr. DORSEE. Our concern is over the future incremental impact, and I am obviously not acquainted with the details of the prior law, but I am very concerned about the future impact.

Mr. JENKINS. You are having to compete with imports and finished products.

Mr. DORSEE. Yes, sir.

Mr. JENKINS. Would this be an ill advantage to you?

Mr. DORSEE. No action would be an advantage to us.

Mr. JENKINS. Thank you.

Chairman GIBBONS. Solomon would have a hard time deciding what this fabric is. I do not know what it is. We will study it. I do not know what we are going to do. It is a tough one.

Thank you very much.

Mr. DANIEL. Thank you, Mr. Chairman.

[The following was subsequently received:]

ARTER HADDEN & HEMMENDINGER,
Washington, D.C., May 17, 1983.

Re: H.R. 1910

Hon. SAM M. GIBBONS,
Chairman, Trade Subcommittee,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is sent on behalf of the Ad Hoc Committee of American Vinyl Distributors and Finished Vinyl Goods Manufacturers.

During my testimony, and again during the testimony of Mr. Robert Dorsee of the Brunswick Corporation, the question arose when "the change in practice" of the Customs Service was implemented, by which "Schedule 3" products were classified as "Schedule 7" products. It is our understanding that this issue remains an important one in the deliberations of your committee.

With all respect, we submit that the question is not properly presented. Proponents of the bill insist that Customs is not carrying out the intent of Congress. This is not true. When Customs is looking at a textile, even though the textile has a con-

siderable proportion of weight or value as plastic, Customs obeys the headnotes to Schedule 3 and classifies the textile as either polyester, cotton, etc., according to the type of yarn used in the fabric in question. When Customs is faced with a product "wholly or almost wholly" of plastics, it classifies that product in Schedule 7 according to the nomenclature provided there.

The issue that arose in this matter was *not* how to interpret Schedule 3 or Schedule 7, but rather whether the vinyl product used in sports bags, automobile upholstery, furniture, and similar applications is a "textile" or whether it is "wholly or almost wholly of plastic." The tariff schedules provide no guidance on this point. The legislative history cited by proponents of the bill assumes that this question has already been answered.

This question first arose in 1975 with imitation patent leather.[1] In that case, the Customs Court held that imitation patent leather should be classified as a plastic product, not as a textile. Four years later this principle was applied to other forms of imitation leather.[2] These holdings were both affirmed by the USCPA.[3] The March 25, 1982 guidelines of the Customs Service [4] clarify and codify the criteria under which these court decisions are to be implemented.

Throughout this period from 1976 through 1982, some vinyl plastics nevertheless entered as textile products. Most importers were unaware that there was an ambiguity in the provision, or that vinyl products "wholly or almost wholly of plastics" should be classified under a different tariff schedule number. Since April of 1982, shipments from GSP countries have been eligible for duty-free treatment under either provision, so their tariff classification made no practical difference.

We therefore urge the Committee to consider H.R. 1910 for what it really attempts to do, namely overrule two appelate cases and render inoperative a portion of the headnotes in Schedule 7. Most importantly, the effect of the tariff schedule change will be to expose America firms to increased foreign competitors in the finished products without increasing by any appreciable amount the demand in the United States for the plastic or its textile mesh backing.

We thank you for your consideration.

Sincerely yours,

AD HOC COMMITTEE OF AMERICAN
DISTRIBUTORS & FINISHED VINYL GOODS
MANUFACTURERS,
By: ROYAL DANIEL III,
Arter Hadden & Hemmendinger.

MARCH 25, 1982.

AREA DIRECTOR OF CUSTOMS,
World Trade Center,
New York, N.Y.

DEAR SIR: This is in reply to your Request for Internal Advice No. 34/82, your file CLA-2-03; S:C:D 7-(86)-72-407, 801424 ex 801523, concerning the tariff status of certain fabrics which have been coated or filled, or laminated, with rubber or plastics material.

Facts

Your Request for Internal Advice is predicated on two separate requests received from an importer on the classification of certain woven textile fabrics that have been coated on one surface with a urethane type plastics material that has been embossed to simulate leather. In addition, you have submitted small samples of nine other fabrics that have been coated or filled, or laminated, with rubber or plastics material and one sample of paper that has been coated with plastics.

The additional fabrics that you have asked about are (A) automobile upholstery fabric which consists of a woven or knit fabric that has been coated or filled with rubber or plastics material which has been processed to simulate leather, and which has small holes punched into it at regular intervals of 5/16 inch, creating diagonal lines; (B) woven polypropylene textile strips laminated with clear plastic material to be used for such purposes as tarpaulins; (C) wet suit material consisting of a knit fabric laminated to a heavy layer of foam rubber or plastics material; (D) insulating material which appear to consist of a knit fabric laminated to a heavy layer of expanded foam plastics; (E) wall covering material which appears to be made from a

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[1] *Canadian Vinyl Industries* v. *United States*, 408 F. Supp. 1377 (Cust. Ct. 1976).
[2] *Elbe Products Corp.* v. *United States*, 497 F. Supp. 707 (Cust. Ct. 1980).
[3] *United States* v. *Canadian Vinyl Industries*, 555 F.2d 806 (USCPA 1977); *United States* v. *Elbe Products Corp.*, 655 F.2d 1107 (USCPA 1981).
[4] Copy attached.

woven scrim fabric that is embedded in rubber or plastics material; (F) imitation leather material made from a woven fabric that has been coated or filled, or laminated, on one surface with leather or plastics material; (G) paper that has been coated on one surface with rubber or plastics material processed to simulate a suede appearance; (H) imitation oil cloth to be used in the manufacture of tablecloths, made from a nonwoven fabric that has been laminated on one surface with a plastics material containing a flower design; (I) waterproof rain suit material which consists of a woven fabric coated on one surface with a comparatively heavy layer of clear plastics material; and (J) another imitation leather which consists of a woven fabric coated or laminated with expanded vinyl on one surface.

Issue

The issue presented by the subject inquiry is whether *United States* v. *Elbe Products Corp.*, C.A.D. 1267 (decided July 16, 1981), is applicable to the submitted samples and, if so, to what extent?

Law and Analysis

Prior to the decision in *Elbe*, Merchandise as represented by all of the submitted samples, except for the coated paper, was classifiable, when imported in material lengths, as textile materials in Schedule 3, Tariff Schedules of the United States (TSUS). We have previously stated in a letter to the Assistant Chief Counsel in New York, file 069371, dated December 15, 1981, that *Elbe* is merely an extension and reaffirmation of the Court of Customs and Patent Appeals decision in *United States* v. *Canadian Vinyl Industries*, 64 CCPA 97, C.A.D. 1189 (1977), which was limited by the Customs Service in T.D. 77-210. We consider the decision in *Elbe* to supercede T.D. 77-210 and, therefore, the holdings of both cases will be followed. However, as stated in another letter to the Assistant Chief Counsel in New York, file 069319, dated January 27, 1982, this office is not prone to extend the rational or reasoning of the court in the *Elbe* case beyond the express holding of that decision.

Both *Candian Vinyl* and *Elbe* held that lengths of imitation leather materials were articles for the purposes of Headnote 1(vii), Subpart 4C, Schedule 3, TSUS, and Schedule 7, TSUS, and that in each instance the plastics coating or lamination imparted the required visual and textile qualities to the merchandise before the court. As a result the plastic coatings or laminations were considered to impart the essential character to the merchandise and that merchandise was, therefore, "almost wholly" of rubber or plastics. Thus, the merchandise in those cases was specially provided for in the provisions now numbered 771.40 and 771.43, TSUS, and classifiable thereunder.

In both *Canadian Vinyl* and *Elbe*, the court considered *Marshall Co.*, v. *United States*, 67 Cust. Ct. 316, C.D. 4291 (1971). The court, in *Canadian Vinyl* specifically overruled a portion of the *Marshall* decision which stated that the merchandise in question did not constitute "articles" for purposes of Headnote 1(vii). Otherwise, the holding in *Marshall* was left intact. Likewise, the court in *Elbe* cited with approval a portion of the *Marshall* decision dealing with the applicability of Headnote 4(b), Schedule 3, TSUS, and, again, did not find it necessary to overrule the holding in *Marshall*.

In view of the express language and holdings of *Canadian Vinyl* and *Elbe*, we have no choice but to consider all coated or filled, or laminated, fabrics articles as that term is used in Headnote 1(vii), That headnote provides that articles specially provided for in Schedule 7 or elsewhere are not classifiable in Subpart 4C, where the provisions for coated or filled, or laminated, fabrics are located. However, merely because coated or filled, or laminated fabrics are now considered articles, that does not automatically preclude them from classification in Subpart 4C. Before that merchandise may be classified in Schedule 7, or elsewhere, it must be determined that it is "specially provided for" by a provision outside of Subpart 4C.

Items 771.20-771.55 TSUS, are under a superior heading which describes the merchandise classifiable therein as film, strips, sheets, *etc.*, wholly or *almost wholly* of rubber or plastics. The phrase "almost wholly of" is defined in General Headnote 9(f)(iii), TSUS, as meaning that the essential character of the article is imparted by the named material. Accordingly, fabrics which have been coated or filled, or laminated, with rubber or plastics material are classifiable in Schedule 7 only if the material provides the essential character to the merchandise, namely, that the rubber or plastic imparts certain required visual and tactile qualities. Thus, as we read *Canadian Vinyl* and *Elbe*, virtually all imitation leather materials consisting of a textile fabric that has been coated or filled, or laminated, with rubber or plastic material, where a textile presence is not readily apparent, is now classifiable in Schedule 7, TSUS. Note that this may not be the case where nonwoven fabrics are used to simulate suede. We also believe that the imitation oilcloth material, sample H, and

the imitation suede material backed with paper, sample G, are in the same category of merchandise as imitation leather, and subject to the same rules of classification.

Holding:

Following the reasoning set out above, merchandise as represented by samples A, F, G, H, and J have their essential characters imparted by their rubber or plastics components and are classifiable in Schedule 7. In addition, the merchandise which is the subject of the two requests upon which this internal advise request is predicated are also classifiable in Schedule 7. It is our view that the classification of merchandise represented samples B, C, D, and I is not affected by the court decisions.

There is presently one or more cases pending before the Court of International Trade concerning the tariff status of wall covering materials similar to sample E. Until those cases are stipulated, decided, or otherwise disposed of, that type of merchandise should continue to be classified under the provisions for woven fabrics, coated or filled, or laminated, with rubber or plastics, according to the component fiber in chief value, in items 355.65–.85, TSUS.

In regard to your memorandum of September 4, 1981, your file PRO–1–01, S:C:D7–86–380, asking for general guidelines in this area, you are advised that your office was contacted telephonically on December 2, 1981, and informed that no response giving general guidelines would be forthcoming from Headquarters. However, if specific issues were presented to Headquarters for resolution, then we would respond to those requests.

Sincerely

HARVEY B. FOX,
Director, Classification and Value Division.

Chairman GIBBONS. We will now take Mr. Edgar's bill, H.R. 2320.

STATEMENT OF HON. BOB EDGAR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. EDGAR. Thank you, Mr. Chairman.

Chairman GIBBONS. Go right ahead, Mr. Edgar. We are happy to have you here.

Mr. EDGAR. I have a very brief statement.

Chairman GIBBONS. As I recall, we have had this once before.

Mr. EDGAR. That is correct.

Mr. Chairman, let me just apologize for not being here when my name was called.

Chairman GIBBONS. That is all right. Don't worry about that. Go right ahead.

Mr. EDGAR. Thank you, Mr. Chairman and members of the committee. Thank you for giving me an opportunity to speak to you about H.R. 2320 which will suspend for another 3 years the tariff on a unique fabric used in the manufacture of rubberized skirts which encircle the lower hull of hovercraft, hoverbarges, and other vehicles which ride on a cushion of air.

A company in my district, Hover Systems, Inc., a subsidiary of Hake, Inc., manufactures hovercraft and hovercraft skirts. Until recently, the company maintained a separate manufacturing facility in England where it turned the raw fabric into manufactured hovercraft skirts which it could import at a modest tariff. The company wished to manufacture the skirts here in the United States but had been prevented by the prohibitively high tariff on raw fabric.

When the suspension of the tariff on this fabric took effect in late 1980, the company began importing the fabric and manufacturing the skirts in my district in Pennsylvania. In effect, when it imported the fabric, it also imported several manufacturing jobs. The same important condition which existed when the suspension

was first put in place still exists today, namely, there are no American manufacturers producing this specialized fabric. Therefore, the tariff does not protect any American jobs.

At this time, my constituents are still manufacturing skirts for their own hovercraft and are bidding for a contract to produce skirts for another hovercraft manufacturer. The continuation of the suspension of tariff will allow them to bring in substantially more fabric and to increase again the number of manufacturing jobs in our area.

Mr. Joe Zador, vice president of Hover Systems, Inc. in Eddystone, Pa., is here today and is prepared to answer any technical questions you have about the fabric, its manufacture, and its use.

I thank the committee for allowing me the opportunity to speak on behalf of this measure, and I urge this committee to act promptly on an extension of this particular provision.

Thank you, Mr. Chairman.

Chairman GIBBONS. Do you wish to make a statement now? We will be glad to hear you.

STATEMENT OF JOSEPH S. ZADOR, VICE PRESIDENT, HOVER SYSTEMS, INC., EDDYSTONE, PA.

Mr. ZADOR. Yes, Mr. Chairman.

Members of the committee, my name is Joe Zador. I am vice president of Hover Systems, Inc., Eddystone, Pa.

The situation has not changed over the last 3 years when the suspension of duty on Hovercraft skirt material was first enacted. The fabrics used in the manufacture of the skirts still remain a specialty item, generally a woven base cloth with a polymer coating still not available from any U.S. source. This is confirmed by continued research and laboratory testing and the fact that other than our company, very little skirt manufacture is performed in the United States.

Skirt systems for U.S.-manufactured hovercraft, both military and commercial, are imported readymade from Avon in the United Kingdom and other foreign sources. Avon fabrics are still considered superior to any other fabric manufactured in the world for hovercraft use, having continually demonstrated much higher values in tensile, tear, resistance to water penetration of substrate, which is wicking, and wear resistance and weather resistance. Manufacturers in the United States and elsewhere have not been able to achieve all the necessary requirements for a good skirt material. Prime sources for hovercraft fabric are the United Kingdom and Finland.

Suspension of the duty on hovercraft skirt material has allowed our company to complete construction of an 8,000-square-foot fabrication shop fully equipped to manufacture skirt segments. We have employed up to 12 people in the manufacture of the skirt system for a 60-ton capacity, self-propelled hovercraft used to carry cargo in Alaska. We have furnished bids and are actively soliciting bids for skirt systems used on large air cushion cargo carriers and drilling platforms for other manufacturers which would greatly increase our import of materials and employment levels.

If the tariff suspension expires in June, we will not be able to compete with foreign manufacturers as the duty rate favors the completed product by a large margin over textile fabrics. Duty rate of 6 percent for the completed product and 30 percent ad valorem, plus 25 cents per pound weight of the textile fabric. Without the extended suspension of the tariff duty, we would be forced to close our shop with the resulting loss of employment. Aside from the immediate loss of jobs, the specialized techniques involved in the manufacture of hovercraft skirts would also be lost. Such a loss would insure the continued import of skirt systems for military and commercial purposes and restrict the growth of research, new jobs, and fabrication facilities in the United States.

We are presently being considered for a large hover skirt contract which we will have an excellent chance of obtaining provided the tariff suspension remains in effect. The job was bid with no tariff on skirt material, and if awarded the work without the tariff suspension, we would decline the contract.

Thank you, sir.

Mr. EDGAR. Mr. Chairman, if I could make just one other point, in the drafting of the bill through legislative counsel, there is one word misspelled, and we would hope that if you move on our action, you would insert the letter "r" in the word "hovercraft" rather than "hovecraft." That was just a typographical error.

Chairman GIBBONS. We understand that. Thank you for calling it to our attention.

Are there any questions?

Mr. JENKINS. I understand that there are no domestic manufacturers or producers of this specialized fabric?

Mr. EDGAR. That is correct.

Chairman GIBBONS. Well, I don't see why we can't do it for you again.

Thank you very much.

Mr. EDGAR. Thank you very much. We appreciate your letting us testify.

Chairman GIBBONS. Thank you, sir.

Mr. Moore, since you have been so patient and you are a member of the Ways and Means Committee, we will take you right now on H.R. 2158.

STATEMENT OF HON. W. HENSON MOORE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

Mr. MOORE. Thank you, Mr. Chairman. I certainly appreciate your according me that courtesy.

I am appearing on behalf of the bill H.R. 2158, the only bill I believe I have introduced that is in the subcommittee this Congress, and I am appreciative of the opportunity to testify in its behalf.

This bill is similar to the bill H.R. 6360 which I introduced in the last Congress, and we had a hearing on that bill, thanks to the chairman and the members of the subcommittee. Time ran out during the last Congress for that bill to actually be considered. The bill deals with melamine trade equity, applying to imports of melamine.

Melamine is a chemical used in making surface coatings for wood such as formica, making china dinnerware, and used in the auto industry. It is also used in making molding compounds. The measure introduced last year sought an 11 percent column 1 duty on foreign melamine coming into the United States, primarily from the European Community, while the bill before you today seeks a 9.2 percent rate or less. The reason for the lower rate is the 9.2 percent rate represents the exact same duty imposed on American melamine going to the European Economic Community markets. The higher rate sought last year included an allowance for the EEC VAT charges that we do not impose, a freight rate differential favoring the EEC, and the EEC tariff being computed on a larger cost base than melamine imported into the United States.

We thought that was fair, but in an effort to try to do something and get something moving, we will even take less than that, and just an actual one-for-one comparison, even though we are comparing apples with oranges. These factors still remain, but since it involves higher trade questions, we seek only that 9.2 percent.

Mr. Chairman, there are only two domestic producers of melamine in the United States. Both are located in Louisiana. One, American Cyanamid, uses all of the melamine it produces for its own purposes. The second, Melamine Chemicals, Inc., MCI, is the only American melamine producer competing against imports for sales in the open market, informs me that the 4.4 percent duty imposed on U.S. melamine imports compared to the 9.2 percent EEC duty rate finds foreign markets closed to the U.S. melamine and foreign penetration of our markets increasing.

As you know, Mr. Chairman, I am a firm advocate of free and fair trade, and all I want to see is equal market competition or fair market competition where everybody has a level playing field. Any duty bias produces a market distortion and a need for a remedy.

Last year—well, I will get to that in 1 minute. The administrative channels of remedy have been used and have been tried by MCI on the melamine question, and instances of dumping have been found to have existed in the past. In 1977 the International Trade Commission held injury resulted from Japanese melamine entering the United States, and as a result, the Japanese were forced to leave the U.S. markets as they could not compete with the U.S. producers under equal economic conditions.

More recently, ITC melamine activities have become more entangled. The Department of Commerce 3 years ago agreed that melamine from Austria, the Netherlands, and Italy was entering the United States at less than fair value prices. Diplomatic intervention caused a reversal of this position and a withdrawal of that opinion by the Department of Commerce. They were taken to the Court of International Trade, and in March of this year the Court reversed the Department of Commerce's reversal of its earlier position and held that in fact the exchange rate sought by the Netherlands, which was the grounds for reversing their position earlier, was not correct, and they were ordered to restore their initial findings that melamine was in fact coming in from the Netherlands at less than a fair price or fair value price.

In the meanwhile, 3 years have expired during the course of fighting this thing through the Department of Commerce, the ITC,

the Court of International Trade and back again to start over again. This is too long a process and really quite too burdensome because you must do this on a single country basis as these things come along.

It was suggested last year that I take this matter up with the Special Trade Representative. I wrote Ambassador Bill Brock last May asking him to seek a negotiated correction of the duties in this case, which was suggested to me. He responded that unfortunately section 124 authority for this purpose expired in January 1982 and his hands were tied as he had no authority.

I understand that attempts by the subcommittee and our full committee to have it extended were not successful in the year 1982, and as a result, we find that the ITC's hands, the Special Trade Representative's hands are tied. We have been, for 3 years now, before the International Trade Commission and the Department of Commerce, having one decision, but still no remedy has been ordered.

So Mr. Chairman, it seems to me that by virtue of the fact that time continues to press on, that the one American manufacturer is continuing to find penetration by foreign countries who are in fact selling the product in this country at a subsidized rate, it seems to me that we really ought to consider moving the bill, H.R. 2158.

We have been patient. We have been through the process, and still nothing has been done.

Mr. Chairman, with me today is Mr. Jay Stone who represents Melamine Chemicals, Inc., and they can provide through him additional details on the protracted administrative process or answer any other questions that the chair or the committee may have.

Chairman GIBBONS. Fine.

Mr. Stone, you have a statement?

STATEMENT OF JAY STONE, WASHINGTON REPRESENTATIVE, MELAMINE CHEMICALS, INC., DONALDSONVILLE, LA.

Mr. STONE. Yes, sir, and I am only going to read just a portion of it. I would ask that all of it be included in the record.

Chairman GIBBONS. That will be done.

Mr. STONE. Mr. Chairman, my name is Jay Stone, president of Jay Stone and Associates, Inc. of McLean, Va. I am here today on behalf of Melamine Chemicals, Inc. to testify in favor of H.R. 2158 as introduced by Congressman Henson Moore. Melamine Chemicals is a joint venture of Ashland Oil, Inc. and First Mississippi Corp. and is located in Donaldsonville, La. The plant there manufactures melamine, a white crystalline substance which is made from urea, which is made from natural gas. It has a variety of uses including coatings for appliances, automobiles, building materials, and molded dinnerware. Only one other plant in the United States produces melamine, and it is also located in Louisiana. It is owned by American Cyanamid which provides largely for its own use.

Congressman Moore covered the intent of the legislation here and why we are asking for the increase in the tariff. Earlier this year, MCI made inquiries to Brazil to see about exporting melamine there. We have a letter which I have a copy of and will be glad to provide to the committee if necessary from Brazil which

stated that the price in Brazil for a pound of melamine was $1.52, but that that country does not allow any importation.

Mr. Chairman, Brazil is presently selling melamine in the United States for 40 to 46 cents per pound. So we are being undercut in our price in our domestic market without being allowed the chance to compete in theirs.

Chairman GIBBONS. How in the world do they do that? They don't produce any gas.

You are saying that melamine is essentially a gas-produced product. Coming from Louisiana, I would say that is probably correct.

How does Brazil do it?

Mr. STONE. They must have some natural gas, or they import urea which is made from natural gas.

Chairman GIBBONS. I just wondered if you knew.

Mr. STONE. Right off the top of my head I do not, sir, but I would be glad to provide that to the committee.

Chairman GIBBONS. I know that Brazil does not have any petroleum, so I would presume that they would have very little natural gas. However, Brazil is noted for its subsidies. They are bound to go broke one of these days. They subsidize everything.

I don't know whether this may be another one of their crazy actions down there.

Mr. STONE. We would like to produce all the melamine we produce for 50 cents a pound because they are selling it for $1.50 in their own country, but they will not let us into that market, of course.

Chairman GIBBONS. That sounds like them.

Mr. STONE. Mr. Chairman, we certainly realize both you and the administration are neither favorably disposed to increasing U.S. tariffs as a matter of policy. As a general rule, we agree with you and do not believe that American industry should hide behind a protective wall of restrictions, quotas, and high tariffs. But we also believe that there are exceptions to every rule where commonsense and fair play must prevail.

We do not take this step lightly. We are here only as a last resort, after spending countless thousands of dollars and hours trying to use the system created by Congress to seek a solution to this problem.

A brief history of the administrative and legal steps we have taken prior to this point is contained in appendix A to my testimony. The Department of Commerce, in its report to you last year, when they testified on H.R. 6360, opposed passage of this bill for two reasons. First they said they had no evidence to support or no evidence of "serious import injury" to this industry. I suppose MCI will have to go broke and fire its 100 or more workers for them to see injury.

To give you an example of our injury, our sales have gone from 40 million pounds in 1980 to 29.6 million pounds in 1982, an 18 percent decrease. Imported melamine rose from 13.6 million pounds to 21.6 million pounds in that same time period, a 63 percent increase.

Chairman GIBBONS. Where does it come from?

Mr. STONE. Netherlands and Brazil, and Austria, and Italy, too, but mainly Netherlands and Brazil. We have had to shutdown our

plant for 6 months last year and are anticipating at least a 6 month shutdown this year.

What other evidence do you need of injury before you condemn an industry to die and its workers to be terminated?

The other objection Commerce had was that this country would be "subject to claim or to retaliation by affected countries." Mr. Chairman, the amount of duty increase this bill would bring would probably be less than half a million dollars a year, a miniscule amount compared to the total trading figures that could be easily offset by negotiations by STR without harming any other U.S. interest severely.

Melamine Chemicals, Inc. has been able to export only to countries where melamine is not produced. Countries producing melamine place barriers to entry by overseas suppliers. I mentioned the Brazilian situation, but similar conditions exist in other producing countries. Also, cartels are tolerated by European governments, and the various producers are able to carve up the markets by agreement. Customers in these countries can be boycotted by suppliers in many ways if they buy outside the European Common Market.

So, Mr. Chairman, we come to this commitee asking for relief from this situation. This relief will rectify a mistake made by our own negotiators when they opened up the market to foreign melamine, who I am certain had no intention of wiping out a domestic industry when they agreed to the rate schedule, but times and conditions have changed. You have an opportunity to right the wrong that has been done.

I hope you will see our side and help us stay in business, help our employees to keep their jobs, and restore some fair play to melamine trade.

Thank you, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF MELAMINE CHEMICALS, INC., PRESENTED BY JAY STONE

Mr. Chairman, my name is Jay Stone, President of Jay Stone and Associates, Inc., of McLean, Virginia. I am here today on behalf of Melamine Chemicals, Inc. to testify in favor of H.R. 2158 as introduced by Congressman Henson Moore. Melamine Chemicals, Inc. is a joint venture of Ashland Oil, Inc. and First Mississippi Corporation and is located in Donaldsonville, Louisiana. The plant there manufactures melamine. a white crystalline substance which is made from urea, which is made from natural gas. It has a variety of uses including coatings for appliances, automobiles, building materials, and molded dinnerware. Only one other plant in the United States produces melamine and it is also located in Louisiana and is owned by American Cyanimid, which provides largely for its own use.

Domestic melamine is identical to imported melamine, being manufactured by a plant and a process purchased from the major European producer, Dutch State Mines, a government owned company. Access to raw materials is virtually the same and the costs of production, as best we can determine are about the same. This being the case, there appears to be no reason why the EEC duty rate is 9.2 percent ad valorem and the U.S. duty rate is less than half that 4.4 percent ad valorem. Even excluding other factors which worsen the case, this gives the importers about a 2¢ per pound competitive edge. As a result, despite the fact that the cost of production in the United States is at least as low as the cost in Europe, no U.S. melamine is exported to the EEC market, but foreign melamine is being shipped to the United States in large and increasing quantities.

Earlier this year, MCI made inquiries to Brazil to see about exporting melamine there. They received a letter which stated that the price in Brazil for a pound of melamine was $1.52, but that the country does not allow any importation. Mr.

Chairman, Brazil is presently selling melamine in the United States for 40–46¢ per pound delivered. So, we are being undercut in price in our domestic market without being allowed the chance to compete in theirs. Our maximum list price is 51½¢ per pound, plus freight, so we would love to be able to sell to Brazilian customers.

A similar bill (H.R. 6360) was introduced in the last Congress and the committee was gracious enough to grant a hearing at that time. However, it never progressed to the mark-up stage. That legislation increased U.S. duty to 11 percent, to make up for the disparity of the European method of figuring duties, the magnifying effect of the Value Added Tax, and inequities in freight rates. This bill, H.R. 2158 simply places a reciprocal tariff at exactly the same rate we are being charged by the EEC, 9.2 percent ad valorem and does not address the other issues.

Mr. Chairman, we certainly realize that you and the administration are neither favorably disposed to increasing U.S. tariffs as a matter of policy. As a general rule, we agree with you and do not believe that American industry should hide behind a protective wall of restrictions, quotas and high tariffs. But we also believe that there are exceptions to every rule where common sense and fair play must prevail. We do not take this step lightly. We are here only as a last resort after spending countless thousands of dollars and hours trying to use the system created by Congress to seek a solution to this problem. A brief history of the administrative and legal steps we have taken prior to this point is contained in Appendix A of this testimony.

The Department of Commerce, in its report to you last year on H.R. 6360 opposed passage for two reasons. First they said they had no evidence of "serious import injury" to this industry. I suppose MCI will have to go broke and fire its 100 workers for them to see injury. To give you an example of our injury, our sales have gone from 40.7 million pounds in 1980 to 29.6 million pounds in 1982, a 28 percent decrease. Imported melamine rose from 13.6 million pounds to 21.6 million pounds in that same time period, a 63 percent increase. We have the capacity to provide about seventy five million pounds per year. We had to shut-down our plant for six months last year and are anticipating at least a six month shutdown this year. What other evidence do you need of injury before you condemn an industry to die and its workers to be terminated?

The other objection Commerce had was that this country would be "subject to claim or to retaliation by affected countries". Mr. Chairman, the amount of duty increase this bill would bring would probably be less than $500,000 per year, a miniscule amount compared to total trading figures that could easily be offset by negotiation by STR without harming any U.S. interest severely.

Melamine Chemicals, Inc. has been able to export only to countries where melamine is not produced. Countries producing melamine place barriers to entry by overseas suppliers. I mentioned the Brazilian situation, but similar conditions exist in other producing countries. Also, cartels are tolerated by European governments and the various producers are able to "carve up" the markets by agreement. Customers in these countries can be boycotted by suppliers in many ways if they buy outside of the European Common Market.

So, Mr. Chairman, we come to this committee asking for relief from this situation. This relief will rectify a mistake made by our own negotiators, who, I am certain had no intention of wiping out a domestic industry when they agreed to the rate schedule. But times and conditions have changed, and you have an opportunity to right the wrong that's been done. I hope you will see our side and help us stay in business, help our employees to keep their jobs, and restore some fair play to melamine trade.

Appendix A

The story of how actions by the U.S. and foreign governments have caused MCI to be besieged in its own market is set out below.

1. The Kennedy Round (1968)

Prior to 1968 there was little trade in melamine. MCI was prevented by foreign government restrictions from exporting to any but a few Latin American countries, and the U.S. duty (10.5 percent) was high enough to prevent massive imports on a regular basis. As a result of the Kennedy Round, however, the rate was decreased in stages to 5 percent in 1972. The EEC duty, on the other hand, was reduced to only 9.8 percent.

At about this same time a number of new plants (or expansions of existing plants) were built in Japan, Europe and South America. This expansion of capacity created a serious oversupply and, as a result, foreign melamine began to flow into the U.S. at extremely low prices. Accordingly, MCI took a number of actions to defend itself as described below.

2. Attempts to export

First, MCI looked into the possibility of exporting to other markets, including the EEC, Brazil and Japan, but foreign government restrictions made this impossible (a description of the barriers MCI encountered in Europe is described in Attachemets 1 and 2).

3. The Trade Act of 1974 and GSP

Although nothing was done to provide access to foreign markets for U.S. exports of melamine, the U.S., in the Trade Act of 1974, provided for a Generalized System of Preferences for less developed countries. Melamine was named as an eligible commodity under this program and, thus, imports of melamine from certain countries including Brazil, became eligible to enter the U.S. duty free. Imports from these countries did not begin for several years, however.

4. Dumping by Japan (1975)—The system works

On November 14, 1975, MCI initiated an antidumping proceeding against imports from Japan which were being sold in the U.S. at prices which were 60 percent below the comparable price in Japan. The ITC decided in a 3 to 3 vote that the U.S. industry was being injured by reason of such less than fair value (LTFV) sales. Accordingly, a tie vote being an affirmative result in dumping cases, an antidumping order was issued, and the Japanese producers ceased selling in the U.S. market.

5. The Austria, Italy, and Netherlands dumping cases (1979–83)—A misinterpretation of the law and a 3-year delay

As soon as the Japanese producer left the U.S. market, low priced imports began to come in from the Netherlands and, to a lesser extent, from Austria and Italy. Accordingly, on March 23, 1979, MCI initiated an antidumping proceeding against imports from these three countries. The Commerce Department found that imports from all three countries were being sold at LTFV, but on May 5, 1980 (because of a mistaken interpretation of the law), Commerce withdrew the LTFV determination against the Netherlands. The ITC then found that the injury done to MCI by imports from Austria and Italy alone was not sufficient to trigger the antidumping law. Accordingly, all three cases were dismissed at the administrative level, and the foreign producers involved were permitted to continue their LTFV sales.

MCI appealed the findings in all three cases to the Court of International Trade (CIT). On March 25 1983, the CIT (after nearly three years of litigation) reversed the Commerce Department's determination in the Netherlands case, and remanded it to Commerce for further proceedings. The appeals in the Austrian and Italian cases are still pending.

6. The Federal Maritime Commission proceeding (1981)—Relief from inbound, outbound freight rate disparities

Information brought to light during the antidumping proceedings against the Netherlands, Austria and Italy indicated that one reason European producers were able to sell in the U.S. market at low prices was because the freight rates for transporting melamine from Europe to the United States was slightly over 2¢ per lb. while the freight rate for transporting U.S. melamine to Europe over the identical route was over 6¢ per lb. Accordingly, on June 11, 1981, MCI brought an action in the Federal Maritime Commission to correct this inbound-outbound freight rate disparity. Thereafter, favorable settlements were reached with the various carriers, and on February 3, 1982, MCI withdrew the complaint.

7. Request for legislation (1982)

In May 1981 MCI, realizing that administrative remedies had been either too slow or too fragmented, asked that legislation be introduced to raise the U.S. duty up to the level of the EEC duty so that in future trade negotiations they could be reduced at the same rate. Congressman Henson Moore introduced the legislation in the House where it was referred to the Ways and Means Committee. However, both the Commerce Department and the USTR opposed enactment of the legislation on the ground that, if the duty were raised, the U.S. would have to give the EEC compensation on some other product. The bill will come up for hearing before the Trade Subcommittee on May 5, 1983.

8. The Brazil dumping case (1981)—One-way trade at greatly reduced prices

In 1981 the Brazilian producer, who is protected from competition in the Brazilian market by a prohibition on imports, developed a large inventory of melamine because of a decrease in the demand for melamine in Brazil. Accordingly, in 1981–82 large quantities of Brazilian melamine was shipped to the U.S. free of duty under

the GSP program. On September 13, 1982, MCI filed a dumping petition pointing out that the Brazilian melamine was being sold in the U.S. at a little over 40¢ per lb., while the identical product was being sold in Brazil by the same producer for $1.50 per lb. Thus, there was a dumping margin in excess of 300 percent.

On October 28, 1982, the ITC, after a preliminary inquiry, found that there was "no reasonable indication" that the "U.S. industry" was being materially injured by the LTFV sales from Brazil. The ITC found that the "U.S. industry" is made up of the melamine producing facilities of both MCI and American Cyanmid. American Cyanamid produces for its own use, and thus does not compete with imports for the business of its major customer. Accordingly, its plant is fully occupied. MCI, on the other hand, must sell in the merchant market in competition with imports, and its plant was closed for six months in 1981–82 for lack of orders. When the captive American Cyanamid plant is lumped together with the independent MCI plant, however, there is "no reasonable indication" of material injury to the "industry." Accordingly, this proceeding was terminated.

On December 8, 1982, MCI appealed to the CIT from this ITC determination.

Conclusion

U.S. foreign trade laws are designed to insure that the most efficient producers will win in commercial competition. In general, this result appears to be achieved, but the series of events which have occurred in the case of melamine illustrate that in a few cases the opposite result is achieved. Probably this cannot be prevented. The problems are too complex, and the authority to deal with them is necessarily too dispersed among disparate government agencies to permit a coordinated approach in every case. Accordingly, Congress will probably have to continue to be satisfied if the administrative machinery which it has set up to handle foreign trade problems works reasonably well in the vast majority of cases.

Where, as in the case of melamine, the administrative system fails to achieve its purpose, however, it is necessary for Congress to act to correct the mistakes.

Chairman GIBBONS. I want to thank both of you for your testimony.

I notice that Mr. Hance is opposed to this bill, as is the administration.

Have you been reasoning with either of them on this situation?

Mr. STONE. Well, I have not talked with Mr. Hance. I have talked with a member of his staff. I believe a consumer of melamine is located in his district that has asked that he oppose it, and of course, the reason would be that they are buying the cheap foreign melamine that is coming in here, that is being dumped in our country. So they anticipate a rise in their price. Whether or not that rise would happen would depend upon whether or not the European or the Brazilian countries would decide to absorb any tariff increase.

But right now, they have a 2-cent-a-pound advantage which, in this business, is a gargantuan advantage, just on the basis of the tariff alone.

Mr. MOORE. Mr. Chairman, as far as the administration is concerned, we indicated that is one they feel like you ought to handle these things in negotiations and not unilaterally. I have written to Ambassador Brock and we have gotten nowhere on the ground he says he has no authority to negotiate. So we are sitting here. He cannot negotiate. We cannot resolve the issue by negotiations. And it is not like when I sat on this committee, you see a lot of folks come through here, that this was the place they came to first, and that was wrong.

This company has not done that. It has been 3 years in litigation, and has won, but still has received no remedy, and we cannot go through negotiations because there is no authority for that. So we really have no place to come, it does not appear.

Chairman GIBBONS. In the litigations, have you had any countervailing or dumping cases?

Mr. STONE. Yes, sir, we filed dumping cases against all of them, Brazil, Netherlands, Austria and Italy, and Japan. We won the ones against Japan, and Japan cannot import anymore. Against the Netherlands, we won that case, and the Commerce Department threw it out 1 month after they had ruled in our favor. They threw it out saying that they had had some problem with the exchange rate. We appealed that to the Court of International Trade. Three years later, which was just about 1 month ago, the Court of International Trade said Commerce was wrong in reversing. So they reversed them. So it goes back to the ITC again because they have now ruled that they were selling for less than fair value.

Mr. MOORE. The process is just, as the chairman says, is getting awfully long and cumbersome to every time this thing pops up, to go through a 3 year litigation, and we are right back where we started from, and we have won through the litigation process. We are still right back where we started from in getting the attention of the ITC and a remedy ultimately on this case.

Mr. STONE. The other thing, Mr. Chairman, is the ITC has said that there is no economic injury to the industry, and this is where we part ways with them. The industry in this country is really only two companies, American Cyanamid and MCI. They lump both of those together. We said that they should not lump both of them together because American Cyanamid only produces for its own use and buys foreign melamine. And so there is only one company that is competing against the import, and that is MCI. When you lump both the figures together, it makes quite a different picture than if you just take MCI by itself. It is like having your hand in a pan of hot water and a pan of cold water and the average is lukewarm.

Chairman GIBBONS. You present a very strong case for legislative relief.

Let's hear from the plastic manufacturers next and see what they have got to say.

Mr. MOORE. Thank you, Mr. Chairman.

Mr. STONE. Thank you, Mr. Chairman.

Chairman GIBBONS. Thank you.

Mr. Miller, please come up and tell us your side of the story.

You are Mr. Hance's constituent, is that right?

Mr. MILLER. No, sir. I am from Dallas.

Chairman GIBBONS. Well, he was interested in your case, and I just associated the two.

Mr. MILLER. I think he is from out in West Texas.

Chairman GIBBONS. He is from the Panhandle.

Please proceed.

STATEMENT OF JAMES H. MILLER, PRESIDENT, PLASTICS MANUFACTURING CO., DALLAS, TEX., ACCOMPANIED BY ROBIN JOHNSON, COUNSEL

SUMMARY

The Plastics Manufacturing Company of Dallas, Texas, urges the Subcommittee on Trade to reject H.R. 2158 which would increase the duty on melamine from 4.3 percent to 9.2 percent. The bill is contrary to the national interest because (1) it would force domestic users to pay increased prices for melamine; (2) it is essentially

a private bill for the benefit of one company; and (3) it would violate U.S. international obligations. The Administration also opposes the bill for economic and diplomatic reasons. The Subcommittee disapproved a similar bill last year.

Mr. MILLER. Mr. Chairman and distinguished members of the subcommittee, I appreciate the opportunity to appear before you today. My name is James H. Miller, and I am president of Plastics Manufacturing Co. located in Dallas. I have with me Mr. Robin Johnson with the firm of McClure and Trotter. They are our legal counsel on foreign affairs.

Plastics Manufacturing Co. is strongly opposed to H.R. 2158. This is a bill that would increase the column 1 duty rate on melamine from 4.3 percent ad valorem to 9.2 percent.[1] The bill would force our company and other industrial users to pay higher prices for melamine at a time when we have just begun to recover from a prolonged recession.

For this reason and others set forth below, we urge the subcommittee to reject this bill.

Plastics Manufacturing Co. is one of the largest consumers of melamine crystal in the United States. I think there is no way to know for sure, but we feel we are one of the two largest consumers of melamine in the country. We employ between 500 and 600 people and have an annual sales volume in excess of $25 million. We purchase melamine crystals from domestic and foreign sources, primarily for molding compounds and laminating resins.

Melamine is a white crystalline substance used for high pressure laminates, molding compounds, surface coatings, paper and textile treating and coating and adhesives. Molded products include dinnerware, ashtrays, automotive distributor caps, buttons, school and office furniture, and toilet seats.

H.R. 2158 is in effect a private bill which would give a windfall to a single company, Melamine Chemicals, Inc. MCI is essentially the only domestic producer of melamine for the U.S. commercial market,[2] as previously explained. American Cyanimid uses most of its own product.

What the bill appears designed to do is to eliminate the price competition in the U.S. market afforded by imports and thus grant MCI a virtual monopoly. Such a result would be detrimental to the interests of industrial users, since MCI would be able to raise its prices at will.

MCI has tried before to eliminate its foreign competition by bringing antidumping actions against the Netherlands, Austria, and Italy—the primary sources of imports. And previously it did bring action, antidumping actions against a Japanese firm.

MCI's claims were rejected in 1980 by the Commerce Department and the International Trade Commission.[3] Only 6 months ago, in September 1982, MCI tried once again to curtail its foreign competition by filing another dumping complaint. This time its target was Brazil.

The International Trade Commission, however, rejected MCI's contentions out of hand at a preliminary stage of the investigation.

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[1] H.R. 2158 is similar to H.R. 6360, which the subcommittee rejected last year.

[2] The only other domestic producer, American Cyanimid, retains its melamine production almost entirely "in-house".

[3] Since these cases are still in litigation, there is a "chilling effect" on importers of melamine.

Instead of finding the minimum level of injury that would justify a full investigation, the Commission determined MCI's profitability, employment, and domestic market share was positive.[4]

Chairman GIBBONS. The ITC was saying that they were looking not only at MCI but were also looking at American Cyanimid. You are saying that it is just MCI.

Mr. MILLER. Well, MCI was the company that brought the thing, and American Cyanimid was not a party to it.

I am sorry. My counsel tells me it was both of them. But those records speak for themselves.

Chairman GIBBONS. We will take a look at that.

Please proceed.

Mr. MILLER. One Commissioner went so far as to say that "This is not an industry in distress or even an industry suffering the modicum of injury necessary for an affirmative finding. In particular, the financial performance of the two U.S. producers of melamine is satisfactory by the current standards of the chemical industry as a whole." [5]

The higher raw material cost resulting from any duty increase would nip in the bud the economic recovery which is taking place in the plastics industry. The plastics industry and the melamine industry does not stop with the manufacture of melamine. It also includes all these products that are made from it, of which my company is involved. And while we have 500 to 600 employees, we serve and sell compounds and resins to other companies which employ thousands of employees that also use these products and manufacture products from melamine.

The industry has been in a slump for several years because of general economic conditions. While some people may have been down 28 or 30 percent, we were down 45 percent in some areas. It is now experiencing a slight upturn. This would be jeopardized if we are forced to pay increased prices for melamine. In addition, such increased prices would tend to rekindle the inflationary fires in this industry.

The bill would also violate the international obligations of the United States to implement U.S. commitments under the 1979 multilateral trade negotiations. The President proclaimed a stage tariff reduction on melamine to 3½ percent by 1987. As provided in the Trade Act of 1974, in consideration for reducing its duty on melamine, the United States obtained concessions for its exports. A violation of our obligations would bring retaliation against U.S. exports.

The administration also opposes H.R. 2158 because of the adverse economic and diplomatic consequences which would result from its passage. Last year the administration opposed H.R. 6360 on the same basis.

For the foregoing reasons we urge the subcommittee to disapprove this protectionist bill.

Chairman GIBBONS. You are, in effect, saying that melamine has had its day in court and has lost. You are also saying that if the duty goes up, you lose your competitiveness, and other people

[4] Melamine From Brazil (USITC Pub. 1303) at p. 7.
[5] Id.

downstream from you would lose their competitiveness. Is that the gist of your testimony?

Mr. MILLER. Yes, sir. Our products that we make from melamine, we have to compete in many instances against china and stoneware in the dinnerware market, and we have to sell our product against those products, too. And the higher the melamine goes, then the worse our competitive ability is. And it is many other products, you know, in all forms of the industry that we compete against.

Chairman GIBBONS. I think I understand your case.

Thank you very much.

Mr. MILLER. Thank you, sir.

Chairman GIBBONS. Next, we have a bill H.R. 1318, by Mr. Davis which would increase the duty on copper. Presenting testimony we have a representative from Phelps Dodge and ASARCO.

STATEMENT OF EMIL ROMAGNOLI, MANAGER, REGULATORY AFFAIRS, ASARCO, INC., ON BEHALF OF PHELPS DODGE CORP. AND ASARCO, INC.

Mr. ROMAGNOLI. Actually, Mr. Chairman, I am appearing on behalf of ASARCO and Phelps Dodge.

Chairman GIBBONS. All right. Fine. Then you and Phelps Dodge are on the same side?

Mr. ROMAGNOLI. Yes, sir.

Chairman GIBBONS. Go right ahead.

Mr. ROMAGNOLI. My name for the record is Emil Romagnoli, and I was here this morning. I am manager of Regulatory Affairs for ASARCO, Inc. This statement is made on behalf of both ASARCO, Inc. and the Phelps Dodge Corp. in support of Mr. Davis' bill, H.R. 1318, which would restrict the importation of copper, copper bearing ores and materials, copper alloys and their so-called basic shapes and forms.

As background, ASARCO is a major U.S. miner, smelter, and refiner of copper with mining operations in Arizona and Montana, copper smelting facilities in Arizona, Texas, and Washington, and a copper refinery located at Amarillo, Tex. ASARCO is also the leading U.S. custom smelter and refiner. In other words, the company processes either for its own account or on toll the ores and concentrates produced by nonintegrated miners. ASARCO also has equity interest in associated copper mining and processing companies located in Australia, Peru, and Mexico.

Phelps Dodge is a fully integrated U.S. producer of copper with mining and smelting facilities in Arizona and New Mexico and copper refining facilities in Texas and New York. In addition, the company manufactures a portion of the copper produced and copper purchased from others into a wide variety of copper and copper alloy products.

Together, the two companies in 1981 represented 25 percent of the U.S. mine production and 44 percent of the U.S. refined copper production.

Now, Mr. Chairman, if you prefer, I will try to summarize my statement.

Chairman GIBBONS. Yes. We will put your entire statement in the record.

[The prepared statement follows:]

STATEMENT OF EMIL A. ROMAGNOLI, ON BEHALF OF ASARCO, INC., AND PHELPS DODGE CORP.

My name is Emil A. Romagnoli. I am manager of Regulatory Affairs for ASARCO Incorporated. This statement is made on behalf of ASARCO Incorporated and the Phelps Dodge Corporation in support of H.R. 1318, a bill to restrict the importation of copper, copperbearing ores and materials, copper alloys and their so-called basic shapes and forms.

ASARCO is a major U.S. miner, smelter, and refiner of copper with mining operations in Arizona and Montana; copper smelting facilities in Arizona, Texas, and Washington; and a copper refinery located at Amarillo, Texas. ASARCO is the leading U.S. *custom* smelter and refiner: i.e., the company processes either for its own account or on "toll" ores and concentrates produced by non-integrated miners. ASARCO also has equity interests in associated copper mining and processing companies located in Australia, Peru, and Mexico.

Phelps Dodge is a fully integrated U.S. producer of copper with mining and smelting operations in Arizona and New Mexico and copper refining facilities in Texas and New York. In addition Phelps Dodge manufactures a portion of the copper produced and copper purchased from others into a wide variety of copper and copper-alloy products. Together the two companies in 1981 represented 25 percent of U.S. mine production and 44 percent of U.S. refined copper production.

Let me begin by providing a brief review of the international copper marketplace and of the conditions in the copper market. Although the United States historically was the largest copper producer in the free world, this position was overtaken in 1982 by Chilean mine production. Moreover, the relative share of the U.S. has been declining. In 1981, the United States produced 24 percent of copper mine production in the free world, while the four principal copper exporting countries (Chile, Zambia, Zaire, and Peru) accounted for nearly 40 percent. In 1982, U.S. production accounted for an estimated 19 percent and the four copper exporting countries 43 percent. Copper is an international commodity with prices determined on terminal markets such as the London Metal Exchange (LME) and the New York Commodity Exchange (COMEX). Prices are highly cyclical and extremely sensitive to international supply and demand conditions.

The world copper marketplace has been particularly hard-hit by the recent recession, which has resulted in reduced demand for copper's principal markets, the automotive industry and housing, as well as new capital investment in plant and equipment. The surplus supply in the world market has resulted in reduced price levels, which since December 1980 have been at levals that are below the cost of production for the bulk of output in the free world. London Metal Exchange prices declined from a monthly average of nearly $1.30 in February 1980 to 85.2¢ per pound in December 1980 and averaged 79.5¢ and 67.2¢ for the years 1981 and 1982. To put this into perspective, independent analysts generally estimate the average cost of U.S. production to be in the neighborhood of 90–94¢ per pound. Moreover, in *real terms* the average level of copper prices reached in 1982 has been the lowest since the 1930s. According to the U.S. Bureau of Mines, reported U.S. consumption declined by 18 percent in 1982, U.S. mine production declined by 26 percent and refinery production was off by 21 percent, all from their 1981 levels, as U.S. producers responded to marketplace conditions with widespread curtailments in production. While the industry operated at an average 60–65 percent of capacity for the year, capacity utilization at its worst in 1982 reached as low as 40 percent.

Moreover, although we have begun to see some moderate improvement in copper prices and some resumption of U.S. production, the recession in the copper industry is far from over. London prices, which averaged 76¢ in April 1983, are still well below the cost of production. In addition, while many of the curtailments experienced in 1982 might be considered temporary, most experts in the industry believe that a porton of the mine closures that occurred last year might be more permanent if depressed market conditions continue. A duty such as proposed by H.R. 1318 would increase the likelihood for these properties to resume operations. Production curtailments have had devastating impacts upon employment in areas where copper is produced, Arizona, New Mexico, Utah, and Montana. At its worst last year, unemployment in the copper industry reached 17,500 workers, with even greater impacts upon the economies of sparsely populated areas of the West.

The overriding problem facing the domestic copper industry and its workers in the 1980s is the industry's ability to continue to compete as private sector companies operating in a free enterprise environment with state-owned and subsidized production abroad. While this is an issue facing much of basic industry in the United States, our competitive problems are unlike many other industries since the average U.S. copper production can be considered cost-competitive in purely economic terms with average production elsewhere in the world. Our competitive problems generally relate to the effect of U.S. government policy upon competitiveness in the face of contrasting approaches to policy by other copper producing nations.

More than 40 percent of free world copper mine production is owned by governments located in developing countries where copper exports have a dominant role as a source of export earnings and domestic employment. These countries continue to maximize copper production and exports, despite adverse economic conditions, driving world prices to destructively low levels. As a result, the private sector industry, based principally in the U.S. and Canada, is forced to bear the full burden of commercial adjustment in the world marketplace by curtailing production. In the U.S., as I have mentioned, the effects have been devastating, with widespread mine and smelter closures and layoffs of workers. In contrast, for example, Chilean copper production is even being expanded in the face of surplus markets. In addition, the International Monetary Fund and other public international institutions, with contributions from U.S. public funds, have the effect of supporting and encouraging these production policies, which are clearly counter to our own national self-interest. The balance of payments lending policies of the International Monetary Fund not only underwrite below-cost production of copper, but in fact even have the result of encouraging subsidized maximum production by developing countries in order to meet the terms of conditionality imposed by IMF loans.

In the custom smelting and refining sector of the copper marketplace, production is not necessarily owned directly by governments, but it is subsidized and supported by government policies which distort the international marketplace for custom copper ores and concentrates. The Japanese custom smelting and refining industry, for example, has expanded substantially during the 1960s and 1970s utilizing an internal pricing practice made possible by high tariffs and controls on imports of both refined copper and fabricated products. As a result, Japan has preempted approximately 70 percent of the supply of custom copper concentrates that move in international trade. When combined with Korea, Taiwan, and Brazil (other custom smelting nations which have emulated the Japanese example of trade practices to subsidize competition for custom concentates), together these nations have preempted a total of more than 80 percent of the custom ores and concentrates in international trade.

The consequence has been that the United States until recently with the closure of domestic mine facilities has been exporting copper concentrates for smelting and refining and fabrication in Japan while U.S. smelters and refineries face continuing difficulty in acquiring feed. This is copper that is lost to the U.S. market, since the metal returns to the U.S. as semi-fabricated products or as finished goods. Moreover, the system, combined with the cost of pollution control investment, provides a built-in incentive to close domestic copper smelters.

Another factor affecting competitiveness of the U.S. industry has been the substantial commitment in capital to meet pollution control requirements. The U.S. copper industry has expended approximately $1.5 to $2 billion in capital costs to meet the requirements of the Clean Air Act, principally for the control of sulfur oxide emissions from domestic copper smelting facilities. This is a huge amount relative to the resources of the industry and of its individual members. During the 1970s, capital costs for pollution control in nonferrous metals averaged 18 percent of total capital costs, which compares with about 8 percent for electric utilities and an average of 5 percent for all business. For copper smelters, compliance with the Clean Air Act entails major capital investments in untried innovative technologies, generally requiring substantial reconstruction of existing facilities. Because of the international nature of copper competition and the cyclical nature of prices, it is not possible for U.S. producers to pass forward to its customers the cost of pollution control and still remain competative.

Also important here is the ability of a domestic smelter to pass back the higher cost for pollution control to the mining stage without cutting off economic reserves and without affecting the cost-competitiveness of domestic copper mining.

These are costs that generally do not exist for other competing nations in the copper market. For those nations that have required installation of pollution control equipment on copper smelters, such as Japan and in Europe, public policy has entailed a much more supportive approach. One often hears, for example, that U.S.

smelters should follow the Japanese example of remaining competative while installing costly sulfur capture equipment. Yet, the fact is that Japanese smelters do not compete in the world market, but instead remain viable because of the tariff protection and import restrictions that I have already mentioned.

Our companies have been seeking to get our government to address the trade and competitive problems facing the domestic copper industry for some time, but without success. The American mining industry has been calling for a coordinated approach to minerals policy for years.

In the area of trade policy, the issue is not really one of protectionism vs. free trade, but rather of common sense. Many of us feel that negotiations have been conducted in the past by providing tariff cuts in basic industry such as copper in order to achieve concessions in entirely different sectors. Such a policy does not achieve free trade. Instead, the result in broad terms has been a hodge podge of tariff imbalances that place our industry at a competative disadvantage. The resulting tariff imbalances among copper consuming nations have caused the U.S. to become the dumping ground for copper during periods of reduced demand and depressed prices.

Another consequence of the wide disparity in tariff rates between the U.S. and Japan and other copper custom smelting nations, as I have described, has been to facilitate a system that gives other custom smelting and refining nations an advantage in the highly competitive international marketplace for custom ores and concentrates.

Our industry supported ratification of the Tokyo Round, largely since the tariff protection that existed prior the MTN was already minimal and because of the promise that the new mechanism established would be able to focus on dealing with problems of non-tariff barriers and government subsidies, which in this sector we have perceived to be the real trade problem. that promise has not been realized. In fact, we have had virtually no success in persuading our government to deal with the issues of international subsidies in copper. Asarco, for example, has for the last year attempted to interest the Administration in negotiating with Japan to eliminate or reduce the effect of Japanese trade practices that restrict refined copper imports.

Moreover, in 1978 the U.S. copper industry filed and won an Escape clause petition before the U.S. International Trade Commission on the injurious effect of unfair imports of refined copper. Our petition was then rejected by the President, on grounds which had little to do with the substance of our case. For these reasons, Asarco and Phelps Dodge have come to the conclusion that tariff relief such as offered by H.R. 1318 is the only way to assure the survival of a domestic industry that would otherwise be competitive except for the effects of government policies. The consequence of a continued erosion of U.S. copper capacity will be an increasing dependence upon imports for an improtant strategic material.

H.R. 1318 has some features which we feel make it especially attractive. First, the bill would apply a 10¢ per pound duty on the copper contained in most fabricated products, which would avoid the potentially adverse effects of a higher duty on most of our customers and at the same time possibly even providing much-needed relief to the U.S. brass mill industry, which itslf is suffering from the effects of unfair import competition.

Secondly, the duty that would be provided by H.R. 1318 would be temporary, expiring unless renewed on December 31, 1987. This is a period of transition in the U.S. copper industry—transition entailing continued massive commitments to pollution control investment, in severe dislocation brought about by the international debt crisis, and in technological changes affecting the future growth of copper markets. this transition has included the virtual disappearance in recent years of what were once great mining companies. Asarco and Phelps Dodge are two of only a handful of large, copper mining companies that remain independent. Other countries face similar problems of industries in transition by managing these changes through tariff and trade mechanisms. We see this now in Japan with respect to aluminum and other basic industries. By way of contrast, the U.S. copper industry has had to manage a very difficult period, not only wihtout assistance from its government, but with the effect of policies that work against its competitiveness.

We do have some recommendations which are designed to improve the legislation. First, the bill in its present form proposes to apply the tariff to the copper contained in copper ores and concentrates. The U.S. is the only industrialized nation in the world which to my knowledge imposes a tariff on these basic raw materials, thus adversely affecting the overall competitiveness of a value-added processing industry. By contrast other nations maintain no duties on ores and concentrates, but offer protection on refined metal and fabricated products. we would recommend removing the duty on copper ores and concentrates.

Secondly, we would suggest that the bill be revised to provide a trigger price, below which the 10¢-per-pound tariff would go into effect. This would remove the effects of the duty during periods of an improved supply-demand balance when hopefully copper prices might be stronger, but offering much-needed protection during periods such as the present reccessionary downturn when prices are below the cost of production and when U.S. producers must compete with full production and export policies of government owned corporations. As a point of interest, the Tariff Schedules presently provide such a trigger mechanism, which however is drastically outdated at 24¢ per pound, the copper price in effect of the time the trigger was enacted at the end of the Korean War. Such a trigger price could be established on the basis of average world production costs and adjusted for inflation in order to provide a cushion during periods of prolonged recession.

Let me conclude by saying that there is an urgent need to develop public policy that would permit otherwise competitive basic industry to survive against subsidized offshore competition. The current Administration's response to our trade problems has been to target the high technology area for trade policy attention, potentially sacrificing our important basic industries such as copper which have traditionally provided the source of America's economic and strategic strenght. We feel that our basic materials producing industries such as copper have subsidized overall economic growth over the last twenty or more years. This was accomplished in general terms through the ready availability and expanding supply of low-price raw materials. In specific terms, this process occurred through public policies that suppressed prices through jawboning and formal price control programs, which sacrificed tariff protection in basic materials commodities in order to achieve the objectives of free trade affecting other sectors, and which forced a disproportionate cost burden upon basic industry to achieve other societal goals such as environmental protection. by way of contrast, the policies of other nations are just the reverse.

Phelps Dodge and Asarco thank the subcommittee for this opportunity and respectfully ask that you consider this legislation that would address the problems affecting our competitiveness.

Mr. ROMAGNOLI. Thank you.

While the United States has historically been the principal producer in the free world of copper, its relative share has been declining. In 1981, for example, the United States had 24 percent of the free world production, while the four major copper-exporting countries—Chile, Zambia, Zaire, and Peru—had a 40-percent share. And last year that balance changed. While the United States produced 19 percent, the four copper-exporting countries produced 43 percent. That reflects the decline that occurred in U.S. production as a result of adjustments made in the marketplace in contrast with full copper production and exporting policies of state-owned production in the developing world.

As further background, copper is produced as an international commodity, and it is priced on terminal markets such as the London Metal Exchange and the New York Commodity Exchange. And prices in the international marketplace are also highly cyclical, as is the case in lead as we discussed earlier. They are very sensitive to international supply and demand conditions.

The past year has been an especially difficult one for the domestic copper industry and indeed for the world copper industry. Prices since December 1980 have been well below the cost of production, the average cost of production throughout the world. In real terms our prices, the prices for the past year or year and a half have been at the lowest level since the thirties. United States mine production declined 26 percent last year, and refinery production was off 21 percent. Consumption was down by about 18 percent.

We are currently operating at about 60 or 65 percent of capacity in the United States. Unemployment has been severely impacted, particularly in sparsely populated areas of the Western States.

The real problem facing the U.S. copper industry is its future ability to compete, continue to compete as a free enterprise or private sector companies with state-owned or at best subsidized production in the developing world.

We feel that we can compete on purely economic terms, but that our real problem lies in the adverse impact of U.S. Government policies when contrasted with the subsidized or supportive effect of policies in competing countries.

The principal problem that occurs in these recessionary downturns and that has occurred in spades in this past or in this current recessionary downturn is that the production in developing countries is maximized despite extremely low price levels to generate foreign exchange and to maintain full employment in developing countries. As a result, the United States has to bear the full burden of commercial adjustment in the marketplace, and that occurs through, as I mentioned, curtailment of production.

Chile, for example, in the face of our production cuts, Chile expanded its production in the face of a surplus market by 15 to 16 percent in the past year.

Another problem in this area is that the policies of the International Monetary Fund through their balance of payments lending policies—while we are supportive of those policies, we are concerned about the way the balance of payments lending occurs—the IMF encourages continued production and maximized production for the mere sake of generating export earnings.

The other kind of subsidization occurs in the more industrialized nations that are custom smelting nations—Japan, in particular—where a high tariff rate and controls on imports in Japan permit the Japanese custom smelting industry, in concert with their Government, to maintain a high internal pricing system which then provides an added margin which is passed back to underbid whatever the terms are in the international marketplace for custom copper concentrates.

As a result, the Japanese have preempted some 70 percent of the custom concentrates in copper that move in international trade, and when you add to the Japanese countries such as Korea, Taiwan, and Brazil which have copied the Japanese example, the amount comes to some 81 percent of custom concentrates in international trade that are preempted.

Chairman GIBBONS. Would you go through that again?

Mr. ROMAGNOLI. Yes, sir. It is a complex thing, and we have been trying to interest the trade representative and the Commerce Department for well over 1 year on this subject. And while they express lots of interest, there has not been a hell of a lot of action.

Chairman GIBBONS. What do they do again?

Mr. ROMAGNOLI. Copper is priced—copper concentrates are priced in the custom marketplace, custom smelting marketplace, by the market price less smelting and refining charges. In other words, the one who can offer the best terms for smelting-refining charges is the most successful bidder in acquiring concentrates.

In Japan they maintain an internal selling price that is about 8 cents a pound above what the rest of the world market has been or is on refined copper and through premium prices on their fabricated products. This allows them, provides them with an added margin, which is then passed back in the form of competitive terms in the smelting-refining marketplace. For example, ASARCO's terms we feel average in the neighborhood of 30 to 32 cents a pound for custom smelting charges, and the Japanese can come in and offer 18 to 20 cents a pound. And the result has been that the United States has become a developing country in copper. We export raw materials, ores, and concentrates to Japan for processing, and that copper is lost to the U.S. market because it comes back here either as fabricated products, brass mill products or wire mill products, and it comes back here as finished goods, television sets, and cars.

Chairman GIBBONS. What you are outlining is a very complex subsidy by the Japanese pricing system.

Mr. ROMAGNOLI. Now, it is the pricing system that is allowed to exist because the Japanese maintain a high average tariff on refined copper, 7½ percent ad valorem, combined with the existence of import controls on refined copper. They do not permit any competition in their market for refined copper, whereas in this country we have a free and open market and so does Europe.

The Europeans have been equally disturbed by this and have taken it to the GATT. Our Government has decided not to take it to the GATT.

So anyway, I guess my point here is that we have two forms of subsidy. We have the State-owned corporation in the developing world which maximizes their production because they have to in order to generate foreign exchange, and we have in Japan a different kind of subsidy which is affecting the smelting and refining sector.

Another aspect of competition that our industry has had to face is in pollution control cost. We think that we have borne a heavier burden than much of U.S. industry, in fact most U.S. industry. Throughout the 1970's our capital expenditures for pollution control represented about 18 percent of the total capital expenditures. That is measured against the oil industry of about 5½ percent, and I think utilities which is very high—an industry with a heavy pollution control problem, I think they averaged 8 percent.

We think in trade policy the issue here has not really been one of free trade versus protectionism. We think in the last two rounds of tariff negotiations that basic industry such as copper has been sacrificed in the form of reduced tariff protection in exchange for concessions that were given to other industries.

We think these tariff concessions would have been all to the good and would have been helpful to the entire marketplace if they had been—if they had occurred with concessions in the same sectors such as from Japan, but they did not. The result, we think, is a hodge-podge of tariff imbalances which places the industry at a competitive disadvantage.

Moreover, in 1978 our industry brought an escape clause action and won an escape clause action before the Trade Commission on

the issue of the unfairly priced subsidized exports by developing countries; yet that petition was rejected by the Administration.

With respect to H.R. 1318, we think there are some attractive features that make it desirable. I recognize that this is not the most popular cause to be espousing here, but the bill would provide a 10-cent-per-pound tariff which comes to, if you use 85 cents, which is higher than what we have now, it comes to about 5 percent ad valorem across the board on all copper products, including brass mill and many wire mill products.

And we think an advantage in that is that that could be looked at as providing some relief even to the brass mill industry which has been facing some competitive problems from the Japanese and Europe themselves.

Second, we think that the bill is temporary in nature, and it is a 5-year—it has an expiration date of December 31, 1987, which we think would provide some breathing room during this period of transition that our industry is going through, a period of transition that exists as a result of changes in technology affecting our demand, changes that are affecting production in the developing world which I mentioned. And we think that that 5-year period would be a useful aspect.

And third, we have some recommendations for how we might change the bill. First, we would recommend that the bill contain a trigger mechanism which would remove the effects of the duty in periods when the supply and demand imbalance is improved and when hopefully prices might rise. We do not see them rising very much, but if they did, we could pick a price which perhaps was representative of world production costs, worldwide production costs when the trigger mechanism would go off effect.

This would offer protection that is needed during the periods of depressed prices such as we have now when we have to compete with these export policies of Government-owned production, but as I mentioned, would remove the protection in periods of improved demand and prices.

There is already a trigger mechanism that exists in the copper tariff schedules, which is kind of an unusual thing. However, it is extremely outdated. It is a 24-cent-per-pound price that was in effect during the Korean war when the trigger mechanism was first enacted.

Chairman GIBBONS. Let me ask you, you know that I don't like these market-fixing things. Have you ever tried any kind of countervailing duty cases or dumping cases?

Mr. ROMAGNOLI. Well, as I did mention, we did try the escape clause action.

Chairman GIBBONS. Did you ever try any countervailing duty or dumping cases?

Mr. ROMAGNOLI. Well, I think the answer is no.

Chairman GIBBONS. Well, come back some day when you have.

Mr. Russo.

Mr. RUSSO. I do not have any questions.

Chairman GIBBONS. Mr. Frenzel.

Mr. FRENZEL. Mr. Chairman, my inclinations are the same as yours. Is the price of copper about 85 cents?

Mr. ROMAGNOLI. No, sir. In April it averaged 76 cents. The cost of production is about 90 cents.

Mr. FRENZEL. And you want to put a dime on it in addition to the tariffs that are already in force?

Mr. ROMAGNOLI. No, sir. Mr. Davis' bill, as I understand it, would just replace the current tariff with a 10-cents-per-pound tariff.

Mr. FRENZEL. Are we talking about 1318?

Mr. ROMAGNOLI. Yes, sir.

Mr. FRENZEL. Those are add-ons, the add-ons to numbers that now range from 0 to 10 cents a pound. But even if they were the only items, at the current price you are talking about 15 percent for a tariff, and you just said the Japanese tariff of 7 percent was too high.

Mr. ROMAGNOLI. Now, let me say something here. The refined copper tariff is presently 1 percent ad valorem, and at 76 cents it comes to about 7 cents per pound. It is really a minimal duty.

Mr. FRENZEL. When you get done you will have that plus the 10 percent or the 10 cents a pound, which has got to be at least 15 percent.

Mr. ROMAGNOLI. On refined copper I figured that at 85 cents we would have about 5 percent ad valorem.

Mr. FRENZEL. A dime on 85 cents is 5 percent? Is that the new math? I divided a dime by 85 cents, and I came out with 12 percent. Have you asked the administration to declare copper an import-sensitive item?

Mr. ROMAGNOLI. No, sir, we have not.

Mr. FRENZEL. The President, as I understand it, has the authority to remove items from GSP treatment if they are determined to be import sensitive. And I would suggest, as the chairman did, that you seek some other remedies before we change the law.

Mr. ROMAGNOLI. Let me address that, Congressman, if I may. On the GSP issue, the administration recently added Peru and Zaire to the GSP list because they did not qualify. They now qualified in terms of the triggers under GSP. But the real increase in imports has come from Chile which have been dutiable imports at a 1 percent ad valorem duty. The GSP really does not make that much difference.

So in that sense, yes, we have talked to the administration about GSP, but it does not really help that much, to be honest, sir.

Mr. FRENZEL. Thank you, Mr. Chairman.

I yield the balance of my time.

Chairman GIBBONS. It sounds to me like you have a pocketful of remedies, but you just have not tried any. We are not going to pass this bill. I suggest that you go back and try some of the available remedies. If you can't get remedies under the existing law, then we will listen to you.

I realize you have some problems, and I do not want to be hardhearted on this matter, but——

Mr. ROMAGNOLI. We have tried to get the administration to address some of the questions with respect to the International Monetary Fund, and separately ASARCO has tried to interest the administration on this Japanese question, trying to negotiate a reduction in the Japanese tariff and the issue of free and open competition in Japan for refined copper. And, frankly, we get lots of ex-

pressions of good intentions, but this has been going on for well over a year now.

Chairman GIBBONS. But you have outlined a lot of things that sound to me like alleged subsidies.

Mr. ROMAGNOLI. The Trade Commission agreed with us.

Chairman GIBBONS. The Trade Commission agreed with you?

Mr. ROMAGNOLI. On the escape clause matter they agreed with us that the state-owned production in these developing countries was indeed subsidized production. But it was an escape clause action, and we were turned down by the President.

Chairman GIBBONS. But you have never tried the countervailing duties?

Mr. ROMAGNOLI. No, sir.

Chairman GIBBONS. I would prefer you try that before we go into all of these other remedies.

Thank you very much.

Mr. ROMAGNOLI. Thank you.

Chairman GIBBONS. Our next bill is H.R. 2502 by Mr. Russo, a bill which would suspend the duty on canned corned beef.

Mr. RUSSO. I want to thank the chairman for the courtesy of delaying this, for I had another appointment earlier today.

Chairman GIBBONS. We understand that. We are always anxious to be accommodating.

Mr. RUSSO. Mr. Chairman, I would like to introduce Jack Neaylon, who is the vice president for Sampco, Inc., who is going to testify on behalf of Sampco and other firms that comprise the Canned and Cooked Meat Importers' Association.

Chairman GIBBONS. All right. Fine.

Mr. RUSSO. Mr. Chairman, he has spent 43 years in this business. He has served as the president of the Canned and Cooked Meat Importers' Association and the National Meat Canners Association and he is intimately familiar with meat packaging in both Argentina and Brazil, as well as the United States.

Chairman GIBBONS. Are he and Mr. Bond on the same side?

Mr. BOND. Yes, sir, we are.

Chairman GIBBONS. Good, please come forward together. We are glad to have this kind of unanimity. Please proceed.

STATEMENT OF JACK NEAYLON, VICE PRESIDENT OF SALES, SAMPCO, INC., ON BEHALF OF THE CANNED AND COOKED MEAT IMPORTERS' ASSOCIATION

Mr. NEAYLON. Mr. Chairman and members, I am Jack Neaylon and, if I may, I would like to bring this up to set in front of you. This is corned beef from Brazil, which is not subsidized. I brought that in, Mr. Chairman, to make sure that everyone was familiar with the product that we are talking about, because corned beef is very often confused with what we know as corned beef in the delicatessen.

Chairman GIBBONS. Yes, I eat it over in the House restaurant every now and then and it is pretty good. I do not know who makes it, but I like it. Please proceed.

Mr. NEAYLON. Yes, sir. I am Jack Neaylon, vice president of sales for Sampco and past president of the CCMIA and my testimony is

on behalf of Sampco and the Canned and Cooked Meat Importers' Association.

Sampco and the CCMIA strongly support the proposed legislation which would suspend the duty on canned corned beef for 3 years, commencing October 30, 1983. This bill is needed to prevent severe market disruption in our trading relations.

Chairman GIBBONS. Could you get the microphone a little closer?

Mr. NEAYLON. This bill is needed to prevent severe market disruption in our trading relations with the two principal suppliers of canned corned beef, Brazil and Argentina. The attendant disruption will impact adversely on U.S. jobs of our members and supporting industries.

The members of our association, importers, longshoremen, warehousemen, distributors, and related support industries will be irreparably injured if a 7½ percent duty is imposed on products from one country when the other major producer is not taxed.

In addition, the users of our products, such as the canners of corned beef hash and other food processors, will suffer severe market dislocations if such disparity occurs in the tariff on canned corned beef.

The U.S. jobs and profits of companies trying to come out of the recession are dependent upon resolution of this inequity. Without a resolution, imports from Brazil are likely to taper off to a trickle or disappear, thereby passing dislocation through our industry.

Long-term relationships between many of our members and Brazilian plants makes switching to Argentine products difficult. The same arduous transition can be predicted next year if Brazil regains duty-free status and Argentina is faced with a 7½ duty. Our membership will suffer greatly in the transition.

The tariff on canned corned beef has been lowered pursuant to a treaty and administration action to three percent for the past several years. However, if this proposed legislation is not passed, the tariff will revert back to 7½ percent, effective October 30, 1983, due to a recent competitive need determination.

Under the generalized system of preferences, Argentina is eligible for duty-free treatment on the product this year while Brazil is not. The resulting 7½ differential between the two dominant suppliers will have a catastrophic impact on our trading relations in this product with Brazil this year and potentially Argentina in subsequent years.

Our members, the importers of canned corned beef and warehousing people, in addition to supporting industries, such as food processors, longshoremen, distributors, truckers, freight forwarders, and the U.S.A. consumer would be materially disadvantaged if H.R. 2502 does not pass. There is no substantial interest contrary to the interest presented in this bill since, first, canned corned beef is not competitive with any product produced commercially for sale in the United States. Also, canned corned beef is an insignificant portion of the U.S. meat supply.

In 1982 canned corned beef was imported into the United States in the amount of 68.9 million pounds with a value of $73.69 million. This is a very small contribution to the total U.S. meat supply. These imports in 1981 amounted to only 0.015 percent of the total U.S. meat supply of 42,062,000,000 pounds. This is hardly enough to

create a ripple. It is only a small portion of one percent of the total U.S. meat supply.

Canned corned beef imports do not show an upward trend, so demonstrably it is not taking a greater share of the U.S. market. This is an important source of meat protein for low income consumers. The impact on the U.S. Treasury of suspending the duty, rather than raising it to 7½ percent, would be minimal compared with the advantages of the bill.

Based on the 1982 import figures, the tariff loss for zero duty rather than 7½ percent would be approximately $2.9 million per year. However, even that figure would overstate the case since, if the bill does not pass, exports from Brazil at the higher duty will inevitably fall. Therefore, the loss to the U.S. Treasury would be less than $2.9 million per year.

The U.S. strategic interests in this hemisphere are best served by a Brazil and an Argentina, which are politically and economically strong, competent, and less dependent upon aid and bank borrowing. Stable and predictable trading relations with the United States improve the ability of Brazil and Argentina to meet their obligations to the United States and international lenders.

Since sales margins on this product are very low, a 7½ differential between the two principal producers could only be partially passed through to the consumer. Prices at which competitive importers sell to their customers vary only marginally. The balance would have to be absorbed principally by the importers and/or packers with disastrous impact on their ability to survive.

This is a textbook case of the negative impact of the ping pong effect of GSP. When two countries are the principal suppliers of a GSP eligible product, the predictible result is that one or the other will be removed annually in rotating fashion by the impact of the 50 percent competitive need limitation.

For the above-mentioned reasons, the CCMIA and Sampco urges your support for the passage of H.R. 2502.

I would like to thank the Chairman and the committee for hearing me.

[The prepared statement and attachments follow:]

STATEMENT OF JACK NEAYLON IN BEHALF OF THE CANNED AND COOKED MEAT IMPORTERS' ASSOCIATION

I. SUMMARY

This statement is presented by Jack Neaylon, Vice President-Sales of Sampco, Inc., and past President of our Association, on behalf of the Canned and Cooked Meat Importers' Association (CCMIA) and its member firms. CCMIA strongly supports the proposed legislation which would suspend the duty on canned corned beef for three years beginning October 30, 1983. This bill is needed to prevent servere market disruption in our trading relations with the two principal suppliers of canned corned beef, Brazil and Argentina. The attendant disruption will impact adversely on U.S. jobs of our members and supporting industries.

The tariff on canned corned beef has been lowered pursuant to a treaty and Administration action to 3 percent for the past several years. However, if this legislation is not passed, the tariff will revert back to 7½ percent effective October 30, 1983. Due to a recent "competitive need" determination under the Generalized System of Preferences (GSP), Argentina is eligible for duty free treatment on the product this year, but Brazil is not. The resulting 7½ differential between the two predominant suppliers will have a catastrophic impact on our trading relations in this product with Brazil this year and potentially Argentina is subsequent years.

Our members—the importers of canned corned beef and warehousemen—in addition to supporting industries, e.g., food processors, longshoremen, distributors, truckers, freight forwarders and the U.S. consumer would be materially disadvantaged if H.R. 2502 does not pass.

There is no substantial interest contrary to the issue presented in this bill since:

Canned corned beef is not competitive with any product produced commercially in the U.S.;

Canned corned beef is an insignificant portion of the U.S. meat supply;

Canned corned beef imports do not show an upward trend, so demonstrably it is not taking a greater share of the U.S. meat market.

This is an important source of meat protein for low-income consumers.

The impact on the U.S Treasury of suspending the duty rather than raising it to 7½ percent would be minimal compared with the advantages of the bill. Based on the 1982 import figures the tariff loss for a zero duty rather that 7½ percent would be approximately $2.9 million per year. However, even that figure would overstate the case since, if the bill does not pass, exports from Brazil at the higher duty will inevitably fall. Therefore the loss to the U.S. Treasury would be less than $2.9 million per year.

The United States' strategic interests in this hemisphere are best served by a Brazil and Argentina which are politically and economically strong, confident and less dependent upon aid and bank borrowing. Stable and predictable trading relations with the U.S. improve the ability of Brazil and Argentina to meet their obligations to U.S. and international lenders.

Since sales margins on this product are very low, a 7½ percent differential between the two principal producers could only be partially passed through to the consumer. Prices at which competitive importers sell to their customers vary only marginally. The rest would have to be absorbed principally by the importers and/or packers, with disastrous impact on their ability to survive. This is a text book case of the negative impact of the "ping pong" effect of GSP. When two countries are the principal suppliers of a GSP eligible product, the predictable result is that one or the other will be removed annually in rotating fashion, by the impact of the 50 percent "competitive need" limitation.

For the above mentioned reasons, CCMIA urges your support for the passage of H.R. 2502.

II. U.S. JOBS WILL BE LOST AND INDUSTRIES INJURED WITHOUT PASSAGE OF H.R. 2502

The members of our Association, importers, longshoremen, warehousemen, distributors and related support industries will be irreparably injured if a 7½ percent duty is imposed on product from one country when the other major producer is not taxed. In addition the users of our product, such as the canners of corned beef hash and other food processors, will suffer severe market dislocations if such disparity occurs in the tariff on canned corned beef. U.S. jobs and profits of companies trying to come out of the recession are dependent upon resolution of this inequity. Without a resolution, imports from Brazil are likely to taper off to a trickle or disappear, thereby passing dislocation through our industry. Long-term relationships between many of our members and Brazilian plants make switching to Argentina products difficult. The same arduous transition can be predicted next year if Brazil regains duty free status and Argentina is faced with a 7½ percent duty. Our membership will suffer greatly in the transition.

III. GOVERNMENTAL ACTION HAS CAUSED THIS SITUATION

The United States and Argentina were parties to a treaty involving the trade of raw cattle hides and leather, which also provided for a decrease of the tariff schedule rate for canned corned beef from 7½ percent to 4½ percent, and then 3 percent. As a result of this treaty, at no time during the operation of GSP has there been a spread of as much as 7½ percent between the duties charged the two principal suppliers of canned corned beef. Appendix A.

When this treaty was abrogated last year, the Special Trade Representative's office (STR) held hearings pursuant to Section 301 of the Trade Act of 1974 and decided to retain the 3 percent duty until October 30, 1983. At the same time the STR sent letters to the Speaker of the House and the President of the Senate recommending legislation which would give the President the authority to reduce or suspend the duty on canned corned beef if, in the President's judgment, Brazil made an appropriate trade concession to the United States. No Congressional action was taken on these letters from the STR. Thus, this legislative action is the only way the industry can avoid the foreseeable drastic impact of the increased duty. Our in-

dustry cannot sustain spreads in the tariff between the two major suppliers of 7½ percent, which will occur on October 30, 1983 if Congressional action does not intervene.

Frankly, the opposition of the Administration to this bill disturbs us. It seems a bold attempt on the part of the STR to get what they could not get through suggesting their own legislation. They seek to hold this bill hostage to their desire to obtain "bargaining chips" on other unrelated trade matters with the Government of Brazil. The STR's office is attempting to unfairly hold up H.R. 2502 as a negotiating ploy with Brazil. We consider this unfair and unwarranted.

IV. CLASSIC CASE OF UNINTENDED NEGATIVE IMPACT OF "PING PONG" EFFECT

Under the Trade Act of 1974, a developing country which was otherwise eligible for the benefits of GSP is removed on an annual basis if more than 50 percent of that product comes in from that country. The intent of this provision was to deprive a country of the duty free advantage as it became competitive to the point of being oligopolistic or monopolistic. However, there was no provision for a case in which two countries supplies substantially all of the U.S. consumer's needs. That is the case here, In 1982 Brazil supplies 53 percent of the canned corned beef to the United States and Argentina supplied 42 percent. It could just as easily have been the reverse.

The essential truth remains that the impact of the 50 percent "competitive need" limitation in GSP in this case is to encourage a monopolistic effect rather than discourage it. When the spread between the two countries is 7½ percent, market forces prevent the importers of the non duty free product from passing the entire differential on to the customer. They therefore have to absorb the difference. Our members cannot sustain this difference without drastically reducing or eliminating imports from the non eligible country, in this case Brazil. However, in the future, Argentina might be the victim. Surely this effect was not intended by the drafters of the GSP provisions of the Trade Act of 1974.

The best solution to this "ping pong" effect is to suspend the duty.

V. OUR PRODUCTS DO NOT COMPETE WITH U.S.-SOURCE PRODUCTS

Canned corned beef is essentially an imported product, which is not produced in the United States for commercial sale.[1] The President found this item is not import sensitive when it was initially given duty free treatment under GSP.[2] Nor has the status been changed during subsequent annual GSP reviews.

Canned corned beef has been a familiar household product in our country for many years. Low income families have relied upon it as an economical source of meat protein. However, as affluence increases, buying habits are changing and canned corned beef has suffered a decline in consumer demand. Consumer expenditures for beef have increased, but canned corned beef use has declined significantly due to consumer preference for fresh and chilled meats. Today's typical customer is a blue-collar worker of lower income over 45 years old.

However, in this day of fast food convenience packaging and refrigeration, canned corned beef's utility and attractiveness is diminishing in the mass market. Appendix B shows an irregular, but declining, consumption per capita in the U.S. Also a study by the University of Florida finds that, "the consumption of canned corned beef in the U.S. has declined from 0.70 or 0.80 kgs per capita prior to the mid 1960's to 0.50 kgs per capita in the 1970's." [3] Nevertheless, it retains its place as an inexpensive source of protein for the low income consumer. A graphic demonstration of this fact is that consumption per capita in Puerto Rico, one of the nation's lowest income areas, is 4.32 lbs.[4] Appendix B shows the per capita consumption in the U.S. as a whole to be .28 lbs. In Puerto Rico a 12 oz. can of canned corned beef is typically added to rice and other local produce to feed an entire large family a meal.

Of course, in the broadest sense every food product competes with every other product for the consumer's dollar. In this sense one could say that canned corned beef is competitive with eggs, but this is hardly genuine effective competition.

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[1] U.S.I.T.C. Publication 842, p. xi.

[2] Executive Order 11888, November 24, 1975.

[3] "Economic Considerations of U.S. Canned Beef Imports," J. R. Simpson, Food and Resource Economics Department, University of Florida, January 1980, p. 23.

[4] Canned corned beef imports to Puerto Rico last year were 12.8 million lbs., with a 3.2 million population = 4.32 lbs. per capita. This compares with canned corned beef imports to the U.S. 64.73 million lbs. with a 227.7 million population = .284 lbs. per capita.

There is no significant amount of canned corned beef produced in the U.S. Department of Agriculture statistics show that approximately one percent of the total U.S. sales of canned corned beef is produced in the United States. Our investigations have not disclosed the source of this insignificant amount of domestically produced canned corned beef. The testimony of the National Meat Canner's Association will cover this point more fully.

Canned corned beef is imported into the United States in two different sizes: consumer size cans of two pounds or under and industrial size cans of over two pounds (generally six or ten pound cans). The industrial size is used by U.S. canners such as Libby's for repacking, together with U.S.-source ingredients to produce products such as canned corned beef hash. The U.S. canners report that there is no U.S. source for this meat product and that their studies demonstrated to them that it would not be economical to can corned beef in the U.S. The Defense Logistics Agency arrived at the same conclusion. Their last procurement of canned corned beef was in 1978. At that time there was only one domestic canner and that company has since gone out of the canned corned beef business. Attachment C. It is thus evident that the 13.41 million pounds of canned corned beef imported during 1982 in the over two pound size is not competitive with a U.S. produced product since the U.S. canners can find no domestic supply to replace it.

Nor is the consumer size can competitive with a U.S.-produced product. Since there is no identical product sold at retail, the only possible competition would be that of every food product against every other. Even if we take a vaguely similar product like luncheon meats, again we find no competition since canned corned beef sells at a substantially higher price. Canned corned beef is typically sold at $1.39–$1.89 per pound whereas luncheon meat on grocer's shelves is generally priced at $1.19–$1.49 per pound. Furthermore taste enters into the equation. Consumers who wish to purchase beef will not readily substitute pork products or other luncheon meats. Clearly canned corned beef is not competitive with other luncheon meats.

VI. CANNED CORNED BEEF IS AN INSIGNIFICANT PART OF THE U.S. MEAT SUPPLY

In 1982 canned corned beef was imported into the United States in the amount of 68.9 million pounds. This is a very small contribution to the total U.S. meat supply. These imports in 1981 amounted to only .015 percent of the total U.S. meat supply of 42,062,000,000 pounds. This is hardly enough to creat a ripple; it is only a small portion of one percent of the total U.S. meat supply.

This is not a case in which a trickle may become a flood. Historically, there has been no consistent increase in canned corned beef imports. Appendix B shows, in column I, the annual changes in canned corned beef imports from 1967 to 1982. In 9 years there was a decrease, in 5 years an increase and 1 year there was no change. The chart demonstrates that the average volume of imports for the first half of this period is significantly higher than for the second half. At most the figures show irregular changes, but certainly no increasing trend.

VII. U.S. STRATEGIC INTERESTS ARE BEST SERVED BY A POLITICALLY AND ECONOMICALLY STRONG BRAZIL

Congressman Barnes, the Chairman of the Subcommittee on Inter-American Affairs of the House Committee on Foreign Affairs said in hearings before that Committee on July 14, 1982 that Brazil is of vital importance to the United States because of its strategic location.[5] Brazil is an important market for U.S. products, buying about 19 percent of their total imports from us. We are Brazil's single most important customer, purchasing approximately 18 percent of their exports. We therefore have a favorable balance of trade with Brazil. This trade is not insignificant, approximately $8 billion in turnover annually.[6]

Canned corned beef is an important Brazilian export and thus a source of foreign exchange which is vital to Brazil's unstable economy. It is in the best interests of the United States to assist and not hinder Brazil's unsubsidized exports to the United States. Brazil's debt obligations to U.S. and international lenders can only be met by a strong Brazilian balance of payments. One quarter of the $62 billion owed by Brazil to international lending institutions is owed directly to U.S. banks. This amount is increased if one counts the Eurodollar market through London.[7]

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[5] Hearings before the Subcommittee on Inter-American Affairs of the Committee on Foreign Relations, House of Representatives, 97th Congress, Second Session, July 14, 1982 "United States-Brazilian Relations" at 1.

[6] Id. at 5.

[7] Id at 28.

Brazil has recently demonstrated its preparedness to take vigorous austerity measures to improve its balance of payments. To improve its export picture there have been allegations that Brazil has resorted to subsidies on certain products. No allegations have ever been made in that regard with respect to canned corned beef. If would therefore be unwise, through a routine tariff measure, for the U.S. to effectively close down an avenue of export revenue for our ally Brazil where it is fairly selling an unsubsidized product to the United States not in competition with U.S. products.

The situation Brazil will find itself in, without passage of this legislation, on October 30, 1983 could just as easily be the position of Argentina in subsequent years. Without a tariff adjustment, the "ping pong" effect can be predicted to impact upon Brazil, then Argentina, in perpetuity. This hardly promotes stable economic relations with those countries and would have a disastrous impact upon the U.S. industries relating to the product.

"Trade not aid" is a motto encouraged by the U.S. Government and its citizens. This is a clear case where such trade should be encouraged with two allies in our hemisphere. Opinions may differ on the value of military aid to El Salvador, but none can gainsay the value to the United States of stable, fiscally-sound friendly governments in Latin America. This is an opportunity for Congress to continue mutually advantageous trade with two major allies to the South.

VIII. REVENUE LOSS TO TREASURY INSIGNIFICANT

The tariff income which would be lost to the United States over the three year period is minor. Based on the 1982 import figures from Brazil, the loss of revenue would be $2.9 million per year or $8.7 million for the three year period. If the Brazilian product ceases to be exported to the U.S. as seems likely due to the intolerable 7½ percent spread there would be no Brazilian product and consequently no duty loss to the Treasury. When comparing this with the total U.S. Customs revenues of $44 billion, this is clearly insignificant. Also when comparing it with some of the trade concessions we understand the STR is seeking from Brazilian Government, this amount is disproportionately small. Clearly it is insignificant when compared to the loss of U.S. jobs in the import and related industries, such as port industries, food processors, canners and distributors.

IX. CONCLUSION

In conclusion the Canned and Cooked Meat Importers' Association strongly supports H.R. 2502 and actively solicits your support for this non-controversial tariff item to suspend for a three year period the tariff on canned corned beef.

APPENDIX A.—COUNTRY STATUS RE CORNED BEEF IMPORTS

Year	Country	GSP eligible	Imports	Effective duty (percent)
1976	Argentina	Yes	32.5	0
	Brazil	Yes	37.8	0
1977 [1]	Argentina	No	27.1	7½
	Brazil	No	26.6	7½
1978	Argentina	Yes	34.5	0
	Brazil	Yes	34.6	0
1979	Argentina	No	41.5	4½
	Brazil	Yes	37.3	0
1980	Argentina	No	24.7	3
	Brazil	Yes	66.8	0
1981	Argentina	Yes	27.4	0
	Brazil	No	59.9	3
1982	Argentina	Yes	31.0	0
	Brazil	No	38.8	3
1983	Argentina	Yes		0
	Brazil	No		[2] 3–7½

[1] In 1976 both exceeded the $25M limit.
[2] Go from 3 percent to 7½ percent Oct. 30, 1983.

All figures except 1982 obtained from S.T.R.

APPENDIX B.—U.S. CONSUMPTION, CANNED CORN BEEF

Year	U.S. population (millions)	Imports (million pounds)	Lbs./Cap.
1970	201.9	88.49	0.44
1971	204.9	67.18	.33
1972	207.5	80.13	.39
1973	209.6	69.67	.33
1974	211.6	66.92	.32
1975	213.8	53.02	.25
1976	215.9	99.84	.46
1977	218.1	74.09	.34
1978	220.5	82.80	.38
1979	223.0	76.36	.34
1980	225.6	76.02	.34
1981	227.7	64.73	.28

Sources: U.S.D.C. Report "Imports" 1M146, and U.S.D.A., E.R.S. Bulletin No. 522, Table 27.

APPENDIX C

DEFENSE LOGISTICS AGENCY,
HEADQUARTERS, DEFENSE PERSONNEL SUPPORT CENTER,
Philadelphia, Pa. April 22, 1983.

Subject: Canned Corned Beef, 6 Lb. Can.

Mr. GEORGE C. PENDLETON,
1000 Connecticut Ave. NW.,
Washington, D.C.

DEAR MR. PENDLETON: Enclosed please find copies of the item history card for subject item and the last memorandum prepared concerning its availability. These documents pertain only to the troop issue mission of this Center in support of our military customers.

As Mr. Gnessin advised, the current Federal Supply Catalog lists this nonperishable item as terminal; i.e., not authorized for future procurement. I am aware of no plans to study this item further.

This Center does not intend to take a position on the duty imposed on imported corned beef.

If more extensive information is needed, it will have to be requested under the Freedom of Information Act.

Sincerely,

THOMAS J. LYDON,
Contracting Officer.

SEPTEMBER 6, 1978.

Subject: Item for Discussion at the Armed Forces Product Evaluation Committee on 13-14 SEP 1978.

Topic: Procurement Problems regarding Beef, Corned, Canned, 6-lb. Can (Update).

As previously reported to AFPEC, the most recent procurement attempt for corned beef, 6-lb. can, ended with the cancellation of the requirements (39,168 cans) on 13 April 1978 due to the lack of industry response. The item was last procured competitively in May 1975, and Oscar Mayer has been the sole supplier on the previous four procurements. Oscar Mayer has finally completed their evaluation of continued participation in the procurement of canned corned beef.

Oscar Mayer's Government Contract Administrator visited DPSC on 25 Aug 78, and provided the following information. Oscar Mayer is currently undergoing a rapid expansion of their packaged food processing line. There are no immediate plans for any canning facility. When asked about the possibility of subcontracting the canning operation as Oscar Mayer has offered to do on two MCI items, it was indicated that Oscar Mayer will not subcontract the canning operation due to the difficulty of canning the subject item and the subsequent high risk.

Oscar Mayer's Government Contract Administrator did point out that the company will be forced into some sort of a decision regarding future plans for a new canning facility in late 1979. This decision will depend on progress on the MRE project,

which is currently in the proposal evaluation stage. If Oscar Mayer becomes involved in the MRE project, they will find space and set up their retort equipment. Their retort equipment can be set up to easily facilitate both a retort pouch line and a canning line.

As previously reported to AFPEC, Oscar Mayer is the only known canner of domestic corned beef, and only under contract. Virtually all commercially produced canned corned beef is a product of Brazil or Argentina. At the 12-13 July 1978 AFPEC meeting, the Committee members were advised that the quality of the foreign source product was significantly less desirable than the product procured for military use in the past. DPSC agreed to contact Industry to determine whether nonperishable type canned corned beef is being packed by U.S. firms utilizing foreign corned beef.

Contracts with Industry determined that virtually all foreign corned beef is packed by foreign companies. That is, foreign corned beef is already packed when imported. In addition, foreign corned beef is processed from only the beef fore-quarter, and no prime cuts are used.

In conclusion, subject item will be non-procurable until late 1979, at the earliest.

JAMES E. LIONS,
DPSC Member, Armed Forces
Product Evaluation Committee (AFPEC).

8905-127-3148

REFERENCES

CORN BEEF 6 CAN

1. PURCHASE REQUEST NUMBER / 2. SOLICITATION NO.	AWARD NUMBER AND DATE	1. SPECIFICATION/PURCHASE DESCRIPTION NO. / 2. DATE	1. CONTRACTOR NAME/ADDRESS / 2. PLANT CITY/STATE	LTR BUS	LOT PR
1. ARS74-203-000007 2. DSA 1 31-75-R-0298	DSA 1 31-75-C-2017 16 Sept 74	PP-B-201F 2 JUL 71	NORTH AMERICAN BOSTON, MASS	S	
1. ARS75-073-000005 2. DSA 1 31-75-B-1689	DSA 1 31-75-C-2060 7 May 75	PP-B-401F 2 JUL 71	OSCAR MAYER MADISON, WISCONSIN	L	
1. ARS76-014-000003 2. DSA 1 31-76-R-1611	DSA 1 31-76-C-1049 26 Mar 76	PP-B-201F 2 JUL 71	OSCAR MAYER MADISON, WISCONSIN	S	
1. ARS-77-055-000001 2. DSA 1 31-77-R-8573	DSA 1 31-77-C-0834a 16 MAR 77			L	
1. ARS76-279-000008 2. DSA 1 31-77-R-0096	DSA 1 31-77-C-0884 14 APR 1977				
1. ARS76-342-000003 2. DSA 1 31-77-R-8078	DSA 1 31-77-C-1011 1 JUL 77				
1. 2. DSA 1	DSA 1				
1. 2. DSA 1	DSA 1				

OTHER INFORMATION PERTINENT TO FSH

DPSC FORM 638 (JUN 71)

* GPO: 1979— 310-881/6997 5-1

APPENDIX D.—CANNED CORNED BEEF IMPORTS 1967–82

Year	2 Lb. Can		Ov. 2Lb. Can		Total		$ Per lb.	Annual change	Running Avg.	U.S. Mt. Sply.	Total percent of U.S.
	Mil. lb.	Mil. $	Mil. lb.	Mil. $	Mil. lb.	Mil. $					
1967	56.89	22.72	28.81	10.67	85.71	33.39	0.39		85.71	NA	NA
1968	67.99	28.37	33.04	12.54	101.03	40.91	.40	.18	93.37	NA	NA
1969	62.84	25.67	31.82	12.05	94.66	37.72	.40	—.06	93.90	NA	NA
1970	59.33	25.39	29.15	11.21	88.49	36.60	.41	—.07	92.47	40542	0.021827
1971	40.76	24.99	26.42	16.20	67.18	41.19	.61	—.24	87.41	42070	.015969
1972	54.45	35.43	25.68	15.99	80.13	51.42	.64	.19	86.30	41242	.019429
1973	44.38	32.62	25.29	19.24	69.67	51.86	.74	—.13	80.03	38587	.018055
1974	46.89	52.07	20.03	18.86	66.92	70.93	1.07	—.04	74.48	41339	.016188
1975	40.61	31.32	12.41	8.11	53.02	39.43	.74	—.21	67.38	40043	.013241
1976	75.90	60.85	23.93	15.59	99.84	76.44	.77	.88	73.92	43102	.023164
1977	53.48	42.95	30.61	14.61	74.09	57.56	.78	—.26	72.71	42836	.017296
1978	59.97	48.13	22.83	16.41	82.80	64.54	.78	.12	75.33	41954	.019736
1979	57.47	64.13	18.89	19.59	76.36	83.72	1.10	—.08	77.22	41266	.018504
1980	56.74	85.72	19.28	27.50	76.02	113.22	1.49	.00	81.82	42297	.017973
1981	52.02	75.19	12.71	17.18	64.73	92.37	1.43	— 15	74.80	42062	.015389
1982	55.49	59.93	13.41	13.76	68.90	73.69	1.07	.06	73.76	NA	NA

N/A—Not available.

Chairman GIBBONS. Thank you. Would you like to make a statement?

STATEMENT OF A. DEWEY BOND, EXECUTIVE SECRETARY OF THE NATIONAL MEAT CANNERS' ASSOCIATION

Mr. BOND. Yes, sir. I would like my statement inserted in the record, and I represent the National Meat Canners' Association. We are an association of about 37 member companies. The principal names you will recognize would be Campbell Soup Co., George A. Hormel & Co., Libby, Armour-Dial, and American Home Foods. These are members of ours. We support the bill to suspend the duty on canned corned beef for the 3-year period.

Our association represents 85 to 90 percent of the canned meat products produced in the United States. None of these companies, or any domestic firm, produces this meat product in the United States. I outline here in my statement the reasons for some supporting evidence that the Department of Agriculture has some very erroneous figures about that. Also the fact that the military has been unable to buy this product from domestic producers. They have dropped it now from their list because they are unable to find it in the United States.

Chairman GIBBONS. Because it has a buy America provision?

Mr. BOND. That is right.

Chairman GIBBONS. That is just one of the silly things we do around here.

Mr. BOND. This is corned beef from Argentina and this is from Uruguay and what he has is from Brazil, so these are the principal supplying countries to our Nation. So, our association believes the duty should be suspended as H.R. 2502 provides. This is because of the unfairness of the resulting increase on Brazil, our major supplier of canned corned beef and to assist the domestic consumers of corned beef. There is no need for a protected duty of this nature, as there is no commercial production of canned corned beef. During the 3-year suspension, it is hoped that our Government would negotiate with Brazil for a permanent end to the duty.

Thank you.

[The prepared statement follows:]

STATEMENT OF A. DEWEY BOND, EXECUTIVE SECRETARY, NATIONAL MEAT CANNERS ASSOCIATION

This statement is presented in behalf of the National Meat Canners Association and its thirty-seven member companies in support of H.R. 2502, a bill to suspend the duty on canned corned beef for three years.

This Association represents approximately 85 to 90% of the canned meat products produced in the United States. None of these companies nor any domestic firm produces this canned meat product in the United States. In other words, there is *no* commercial production of sterile canned corned beef in the United States. Our supply is produced outside the United States and mostly in South America. It is imported by various distributors, private label clients, wholesalers, etc.

While records of the U.S. Department of Agriculture indicated that 843,133 pounds of canned corned beef were produced in 1982, this information is grossly inaccurate. In contacting the ten firms reporting production of this product, it was found that eight of the ten firms had no canning facilities. These firms distribute a brisket-style corned beef popular at St. Patrick's Day. The inspector or the plant had been careless in the completion of the reporting form. The ninth firm produced one lot of canned beef and the tenth firm produced a pasteurized canned corned

beef which requires refrigeration—actually a different product than we are considering.

Recently the Defense Logistics Agency removed canned corned beef from its "B" ration listing because of its inability to purchase the product produced in the United States. In its February 28, 1983 Standardization Program Analysis in reference to canned corned beef it is stated:

"As this item has been removed from the "B" ration listing and deleted from the C8900 Stock List, this problem has been terminated. The military services are still in need of an item to replace the corned beef and have agreed to consider a new product described as chunked and formed corned beef. There are several producers of this product plus additional firms interested in producing it. A project with a completion date of the 3rd quarter 83 is underway on development of a limited Military Specification for Corned Beef, Canned, Thermostabilized. No further action is required."

It is interesting to note that the canned corned beef industry was developed in South America by such people as Swift, Armour and Wilson who, at the turn of the century, built and started operating packing houses in Argentina, Brazil, Paraguay and Uruguay. Those meat industry pioneers foresaw that the type of meat needed to produce a satisfactory canned corned beef product would be in short supply in the United States.

Canned corned beef is a staple in the blue collar worker's diet. It is a very nutritious product with a very high protein and a very low fat content. It is a versatile type product which can be used in sandwiches, salads and casseroles.

Canned corned beef in the six-pound can is imported not only for slicing by the institutional trade, but also is a very large factor in the domestic manufacture of canned corned beef hash.

U.S. corned beef hash manufacturers do not have the raw materials or equipment to economically produce the basic ingredient in this country. If they were to cook their own meat and then cure it, they would be faced with the disposal of the meat juices which in foreign countries is made into beef extract. The equipment for making beef extract is very costly and the investment is not justified on the volume of meat they would cook. The duty on beef extract has been one cent a pound and is being reduced over a period of eight years to become duty-free. Our Association feels very strongly that canned corned beef should be accorded exactly the same treatment.

Recently the U.S. Government cancelled a concession on canned corned beef effective in October 1983. At that time the duty will increase to 7½ percent from the current 3 percent. The greatest impact of this change will be on imports from Brazil as the other suppliers to this country enjoy G.S.P. status. The current F.O.B. price at South American ports for canned corned beef sold in the U.S. is slightly over one dollar per pound. Thus the duty in October under current policy will increase from three cents per pound to eight cents per pound for product imported from Brazil. In fact, based on 1982 import volume, the duty assessed on Brazilian product at the new rate of duty is equivalent to about $2.8 million dollars.

Our Association believes that the duty should be suspended as H.R. 2502 provides. This is because of the unfairness of the resulting increase of Brazil, our major supplier of canned corned beef, and to assist the domestic consumers of corned beef. There is no need for a protected duty of this nature as there is no U.S. commercial production of canned corned beef. During the three-year suspension, it is hoped that our government would negotiate with Brazil for a permanent end to the duty.

TABLE 33.—ANNUAL U.S. IMPORTS OF LIVESTOCK, MEAT AND MEAT PRODUCTS BY COUNTRY OF ORIGIN, 1975–79 (AVERAGE) AND 1980–82

Commodity and country of origin	Quantity (in metric tons)				Value (in thousands of dollars)			
	5-year average 1975–79	1980	1981	1982	5-year average 1975–79	1980	1981	1982 [1]
Canned beef:								
Corned:								
Argentina	17,486	13,495	8,656	13,607	30,717	43,377	27,474	31,077
Brazil	14,591	20,122	19,169	16,179	28,173	66,841	59,945	38,839
Paraguay	2,351	0	0	0	4,185	0	0	0
Uruguay	554	758	1,407	1,345	1,088	2,560	4,509	3,285
Other countries	153	110	128	123	357	434	446	492
Total	35,135	34,485	29,360	31,253	64,520	113,211	92,373	73,693

Sources: U.S. Department of Commerce. March 1983.

Chairman GIBBONS. How did you find such a good bill? [Laughter.]

Mr. RUSSO. I only support good bills, Mr. Chairman. You know that. [Laughter.]

Mr. Chairman, I have a couple of questions I would like to ask for the record. If you could, explain to the committee for the record why this corned beef is canned in South America and not in the United States.

Mr. NEAYLON. Historically, and this goes back to the day of the Swifts and the Armours and the Wilsons, who had the foresight to realize that at one time this country would be producing table fed beef to the disadvantage of the lean range type animal in Texas and we would have a shortage of lean beef for processing into sausage, canned meats, and many other items, including frozen food entrees today, which are many of the meat food products which require a lean beef as opposed to a fattened type animal.

The economics since then have also supported the necessity to have this meat brought in. I am sure, as you all know, Australia and New Zealand ship fresh, frozen beef to this country, to the extent of close to 2 billion pounds, again, to supply this country with lean type beef and they simply have to follow the lead that was taken at the turn of the century by the major meatpackers in this country to go outside the U.S.A.

Mr. RUSSO. Does the United States have any ownership interests in South American plants at all?

Mr. NEAYLON. Yes, there are several. Tupman-Thurlow out of New York. Their parent company, Anglo, owns producing facilities in Brazil. Also, Caemint Foods of New York, whose parent company owns producing plants in Brazil. And Campbell Soup Co. owns producing operations in Argentina.

Mr. RUSSO. In addition to the actual importers, would there be any other U.S. businessmen who would be harmed if this bill was not passed?

Mr. NEAYLON. Yes, you have the wholesaler, the retailer, the warehousemen, the customhouse brokers, the transportation business. We use public transportation to move our product to the ultimate consumer. But, ultimately the consumer would be hurt.

Mr. RUSSO. I have no further questions, Mr. Chairman.

Mr. FRENZEL. Mr. Chairman.

Chairman GIBBONS. Mr. Frenzel.

Mr. FRENZEL. I note that the administration is not supporting this bill. The problem is that there is a fair amount of revenue foregone and that Brazil has apparently been unwilling to exchange a trade concession to us for giving it this kind of improved access to our market. Can you tell me how much money we are talking about? This committee usually likes tariffs suspension bills when they do not seem to do anybody any harm except when the customs duties numbers get very big.

Mr. RUSSO. Are you talking about the revenue loss in the bill? I

believe it amounts to about $2.9 million. But keep in mind that if you increase the tariff, you will not get as much product. Thus, the revenue loss is less than $2.9 million.

Mr. FRENZEL. You are not wanting to increase, you are wanting to suspend the duty?

Mr. RUSSO. But if you do not suspend it, if the gentleman from Minnesota would yield?

Mr. FRENZEL. I would yield.

Mr. RUSSO. The duty would then go to 7½ percent.

Mr. FRENZEL. This is an extension of an existing suspension?

Mr. NEAYLON. No.

Mr. FRENZEL. Why would the duty go up?

Mr. RUSSO. The duty would go up as a result of a problem that was created because of Argentina not going through with the so-called Hides Agreement. As a result, when that agreement falls apart, up goes the tariff on corned beef.

Mr. FRENZEL. Well I agree, but I guess I am troubled by the relationship.

Mr. RUSSO. That Argentina is at fault, but Argentina does not pay the price?

Chairman GIBBONS. Brazil would be hurt and Argentina would not.

Mr. FRENZEL. Well, it works both ways. We have got a problem with both countries. Argentina did not followthrough on the Hides Agreement. Brazil, as you know, has a system of export subsidies which are in severe contention at this moment and I think I can understand why the administration does not want to give them some kind of a nice free gift when we are really trying to encourage them to play fair in international trade.

Chairman GIBBONS. This gentleman says that this is not subsidized.

Mr. FRENZEL. I agree and I sort of hate to even raise the question in this instance and I also do not think the amount of money we are talking about is an important concession on our part. On the other hand, our good friends down there somehow have got to be encouraged to play fair occasionally.

Mr. RUSSO. There is no question, if the gentleman would yield, that we would like that to happen. I am trying to work with USTR to see if we can arrive at an accommodation which would be compatible with the traditional practice of this committee regarding the piecemeal extension of negotiating authority. So we are trying to work this out and I would hope that we can by the time this matter comes to markup. If not, I still say we should not penalize Brazil because Argentina erred. Argentina, under the existing system, will not be penalized. Their tariff is still going to be zero, while Brazil's tariff goes up to 7½ percent.

Mr. FRENZEL. Although I would tell the gentleman I do not want to pin any good conduct medals on Brazil. [Laughter.]

I thank the gentleman. I understand what he is doing and I hope that it works out. We all want to thank you for your testimony.

Chairman GIBBONS. If we are not subsidizing them, then at least we ought to commend them for not subsidizing, in this case.

Mr. FRENZEL. Well, we will pin a medal on them for this one. [Laughter.]

Chairman GIBBONS. We want to encourage them to come in without too many subsidies, so we might as well let the corned beef in.

Mr. NEAYLON. Mr. Chairman, thank you and members of the committee.

Chairman GIBBONS. I want to commend Mr. Russo for finding such a good bill.

Mr. RUSSO. I always appreciate the chairman's commendations.

Chairman GIBBONS. We will continue on next Tuesday, May 10.

[Whereupon, at 2:30 p.m., the subcommittee adjourned, to reconvene at 9:30 a.m., Tuesday, May 10, 1983.]

CERTAIN TARIFF AND TRADE BILLS

TUESDAY, MAY 10, 1983

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON TRADE,
Washington, D.C.

The subcommittee met at 9:30 a.m., pursuant to notice, in room B-318, Rayburn House Office Building, Hon. Sam M. Gibbons (chairman of the subcommittee) presiding.

Chairman GIBBONS. Good morning, ladies and gentlemen.

This is the Trade Subcommittee of the Committee on Ways and Means, and it is a continuation of the hearings we began on April 27 and continued on May 5. The purpose of this hearing, as previously announced, is to hear testimony on some of the 50 miscellaneous tariff and trade bills to be considered by the subcommittee. Today we will hold a hearing on 10 of the bills. This will complete the hearings on this group of miscellaneous trade and tariff bills.

Testimony will be heard from the administration and the private sector on certain of these bills. Testimony will be taken in the order that the bills appear on the agenda that has already been made available. As I stated previously, I do not expect to send any bills to the Senate unless there is a Senate companion bill or an identical bill. The reason for this position is, as I stated before, when these bills get over to the Senate, they are probably going to be in one package, and if a bill is in the package and is an orphan, it usually holds up the whole process in the Senate. Therefore, it is for the purpose of getting the more widely sought after bills passed, and not for the purpose of harassing anybody that I have requested that all bills have a Senate companion.

Before we begin, please note a correction on page 2 of the agenda. The description of H.R. 1986 should read as follows: "Amend the Tariff Act of 1930 regarding the country of origin marking requirements for certain pipe items and pipe fittings."

Let us proceed with our first bill, H.R. 717, introduced by Mr. Wright of Texas. Mr. Wright, Mr. Majority Leader, we are happy to have you here, and I apologize to you in the first place. Some of us have been meeting all morning with Texans. We started this morning at 8 o'clock. We are glad to have you here.

Mr. WRIGHT. You have my sympathy, Mr. Chairman. [General laughter.]

Chairman GIBBONS. No, it was very fine.

Mr. WRIGHT. Mr. Chairman, I have two colleagues with me. If I might ask that they come and just sit with me, I would appreciate it.

Chairman GIBBONS. Certainly. We would be happy to have them.

STATEMENT OF HON. JIM WRIGHT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. WRIGHT. This is Ernie Dean, the executive director of the Dallas-Fort Worth Airport Board, and Bill Methenitis is an attorney for the Dallas-Forth Worth Foreign Trade Zone. He practices law with the firm of Strasburger & Price, one of our leading law firms.

This is a very simple proposition which we propose in H.R. 717, which, incidentally, is cosponsored by our colleague, Jack Brooks. The bill, quite simply stated, would exempt from local ad valorem taxation any goods in foreign commerce that are in a foreign trade zone. That is what it does, and that is all it does. It is what you might call a general bill with a local application.

That is what we have here, Mr. Chairman. So far as I know, in all the United States, there are about 74 active foreign trade zones employing a total of some 29,000 people, and dealing in literally billions of dollars worth of goods in foreign trade every year.

They assist mightily in our attempting to cope with the foreign trade deficits that have beset us. They create employment for people in the United States, not just in the zones, but in the companies affected by the zones. I think all of us agree that it is a good thing to have foreign trade zones permitting the freest flow of trade in and out of the United States through them.

Now, there is only one case that I am aware of anywhere in the whole United States where a local taxing authority, a local city has presumed a right to levy local ad valorem taxes on goods in foreign commerce, the inventories in the foreign trade zone, and that, as luck would have it, occurred in my district, at the Dallas-Fort Worth Foreign Trade Zone, where the city of Irving, composed of some very fine Texas citizens, simply misunderstood the nature of a foreign trade zone and undertook to levy local ad valorem taxes on all the inventories that are there in the foreign trade zones.

Well, it occurs that a recent Supreme Court decision in the case of Xerox versus the County of Harris already has ruled that you cannot do that with respect to a bonded warehouse, and I should think that the very same identical provision would apply here. Some States, including Kentucky, I happen to know, have acted legislatively within their State legislatures to exempt goods in foreign trade zones.

We do not think that is necessary that that be done, but they have undertaken nonetheless to do so, and make it abundantly clear that none of their local communities or counties are expected to levy taxes against goods in transit in a foreign trade zone.

Now, the problem in Texas is compounded by the fact that we could not just simply get a State legislative enactment in our State legislature expressly exempting these goods because of a peculiarity in the Texas constitution. Were we to try to handle it at the local level, we would have to amend the State constitution.

That, as you may be aware, is a matter of some difficulty, though it has been done several hundred times in the State of Texas. The legislature has to submit an amendment on a referendum, and all

the voters have to vote for it, and it is always very confusing, because they wait until they have about 7 or 8 or 10 such amendments and then run them en bloc by the voters, and the legislature is just about to adjourn for the biennium.

Meanwhile, all of these goods out here that are in inventory in the companies that are engaging in foreign trade through our foreign trade zone are in jeopardy. It is very difficult to consummate transactions when the airport board and the foreign trade zone itself has to tell additional companies attempting to come in, when they lie in jeopardy of their goods that they might import, intending to work on them there or put them together with other goods for sale locally or goods they intend to export, that they might be subject to local taxation by the city of Irving.

Therefore, in the interest of foreign trade and in the interest of all of the 74 foreign trade zones throughout the country, but primarily in the interest of the Dallas-Fort Worth zone, where the problem peculiarly exists, I would like to suggest and request that you pass this bill and incorporate it in your legislation.

I am told that on the Senate side it is contemplated that the two Texas Senators probably will join me in cosponsoring such legislation.

Chairman GIBBONS. Mr. Dean, we are glad to have you.

STATEMENT OF ERNEST E. DEAN, EXECUTIVE DIRECTOR, DALLAS/FORT WORTH REGIONAL AIRPORT BOARD, ACCOMPANIED BY WILLIAM M. METHENITIS, COUNSEL, DALLAS/FORT WORTH FOREIGN TRADE ZONE

Mr. DEAN. Thank you very much, Mr. Chairman. I very much appreciate the opportunity to appear before this committee in support of the bill and on behalf of the Dallas-Forth Worth Regional Airport, and as the Congressman has indicated, because of the Texas constitutional restrictions, we are not able to enact legislation that would specifically recognize the currently existing Federal preemption of the State and local ad valorem tax, and as a result, it has been a deterrent in marketing the zone in this kind of an atmosphere.

When an interested business inquires as to the status of ad valorem tax on the zone inventory, we cannot point to any definite statement of the ad valorem tax's preemption, and instead we have to tell the prospective businesses about case law and legislative history, et cetera, which sometimes creates the wrong images, and we often are not able to deal with them. They cannot make a sound business decision because the situation is not definite.

So, House bill 717 would certainly solve our problem. The synthesis of the existing law would satisfy prospective businesses that are entitled to this ad valorem tax exemption without having to fight for it in the courts. So, we believe this provision is absolutely necessary if we can continue to develop our zone as we originally intended.

[The prepared statements of Mr. Dean and Mr. Methenitis follow:]

STATEMENT OF ERNEST E. DEAN, EXECUTIVE DIRECTOR, DALLAS/FORT WORTH REGIONAL AIRPORT BOARD

Mr. Chairman and members of the committee, I would like to thank you for the opportunity to appear this morning to express the Dallas/Fort Worth Regional Airport Board's support for H.R. 717. H.R. 717 will remedy a problem we have in Texas. Because of Texas Constitutional restrictions, the Texas Legislature is not able to enact legislation that specifically recognizes the currently existing Federal preemption of state and local ad valorem taxation of inventory located in a foreign trade zone. As a result, each separate local taxing authority having the jurisdiction over a Texas foreign trade zone is required to make the decision to recognize Federal preemption. This is a haphazard and potentially volatile situation inconsistent with the intent of Congress to encourage foreign trade through the creation of foreign trade zones.

Marketing our foreign trade zone in this atmosphere has been extremely difficult. When interested businesses inquire as to the status of ad valorem tax on foreign trade zone inventory, we cannot point to any definitive statement of ad valorem tax preemption. Instead, we have to tell prospective businesses about case law and legislative history, which conjures up images of lawyers, lawsuits, and legal fees. Our situation forces a business as part of its decision as to whether it should locate in a foreign trade zone, to decide whether it is willing to litigate to secure an ad valorem tax exemption. Forcing this unnecessary decision on businesses is inhibiting the development of Texas foreign trade zones.

H.R. 717 would solve our problem. The synthesis of the existing law into a clear statute would satisfy prospective businesses that they are entitled to an ad valorem tax exemption without having to fight for it. We believe this provision is absolutely necessary to the development of foreign commerce through Texas foreign trade zones.

I would like to thank the Committee for this opportunity to express our support for H.R. 717. With me today, on behalf of the Dallas/Fort Worth Regional Airport Board, is our technical expert, Bill Methenitis, who will continue to discuss our support of H.R. 717, and answer any questions you may have.

STATEMENT OF WILLIAM M. METHENITIS, COUNSEL, DALLAS/FORTH WORTH FOREIGN TRADE ZONE

Businesses are being discouraged from locating in Texas foreign trade zones because of a Texas Constitutional quirk that leaves uncertain the possibility that their inventories, while in foreign commerce, would be subject to ad valorem tax assessment by local authorities. The Dallas/Fort Worth Regional Airport Board, the grantee of Foreign Trade Zone No. 39, believes H.R. 717 will remedy the existing problem and encourage the development of foreign trade zones.

Source of the Problem.—Congress has preempted state and local taxation of foreign-origin goods and domestic-origin goods destined for export that are located in foreign trade zones. Acknowledging this Federal preemption, most state and local authorities have taken action to prohibit local authorities from assessing ad valorem tax on foreign trade inventory. Texas authorities have been unable to take such measures, however, because the Texas Constitution prohibits the exemption of items not specifically listed in the Texas Constitution.

Despite the Texas Constitutional prohibition of formally stating the exempt status of foreign trade zone inventory, Texas taxing authorities have generally recognized the Federal preemption. The taxing authorities with jurisdiction over the Dallas/Fort Worth Foreign Trade Zone, for example, have never attempted to assess foreign trade zone inventory. Actual taxation is not the problem. It is threat of taxation, which would require a business to litigate in order to secure the ad valorem tax exemption to which it is entitled, that is inhibiting the business development of Texas foreign trade zones. Businesses considering locating in Texas foreign trade zones must consider the contingent expense of "buying a lawsuit," a cost that is neither warranted nor necessary. This was certainly not the intent of Congress in establishing foreign trade zones.

Current Status of the Law.—H.R. 717 is a clarification of existing law, a point made clear in light of the recent Supreme Court decision in *Xerox Corporation* v. *County of Harris, Texas,* U.S. , 74 L.Ed2d 323, 103 S.Ct. (1982), which holds that ad valorem taxation of inventory in a bonded warehouse (a statutory predecessor to a foreign trade zone) has been Federally preempted. Despite this strong statement of preemption by the Supreme Court, the problem still exists. Under the Texas system if a local authority decided to assess the foreign trade zone inventory of a local business that business would be required to pay the assessment and sue the taxing authority for refund.

The Solution.—The enactment of H.R. 717 would solve the existing problem by simply clarifying the existing Federal preemption of ad valorem taxation of foreign trade zone inventory. This clarification would provide businesses with the certainty they need in order to make the decision to locate in a foreign trade zone.

Benefits to the National Economy.—Foreign trade zones have been created by Congress to increase export/re-export trade and import substitution, the manufacturing or selling of goods in U.S. foreign trade zones that would otherwise be done in foreign countries. By enhancing the development of foreign trade zones, H.R. 717 will create jobs, many of which are currently lost to foreign workers. The national economy will directly benefit from these jobs, and from the capital investment created by the expansion of foreign trade zones.

National Uniformity in International Commerce.—National uniformity in the area of foreign commerce has consistently been a goal of Congress. Achieving the desired national uniformity in foreign commerce has not been possible at the state or local levels because of the Texas Constitutional provisions dealing with ad valorem taxation. By clarifying the existing preemption H.R. 717 provides the desired national uniformity, and encourages the development of foreign trade zones.

Conclusion.—The Dallas/Fort Worth Regional Airport Board unconditionally supports the passage of H.R. 717. We believe that H.R. 717, by merely clarifying the existing Federal preemption of ad valorem taxation of foreign trade zone inventory, will enhance the development of all foreign trade zones and fulfill the Congressional intent in establishing foreign trade zones of creating new jobs and encouraging capital investment.

Chairman GIBBONS. Let me ask either you or your counsel, do you know what other trade zones do about this same problem?

Mr. DEAN. I will refer to Mr. Methenitis on that.

Mr. METHENITIS. The vast majority of States have State legislation, local ordinances, attorney general opinions, any number of various ways to formally recognize the Federal preemption, so that the decision to recognize the Federal preemption is not left up to each local taxing jurisdiction. In Texas we just cannot do that.

Chairman GIBBONS. Are there any big exceptions to that? Are there any big trade zones that collect a lot of ad valorem taxes? I ask this out of curiosity.

Mr. METHENITIS. As far as we are aware, outside of Texas there has not ever been any attempt to assess. Inside of Texas there has been the ruckus with our zone, although there has been no formal assessment even of those inventories. I understand that there have been some assessments in McAllen, Tex. The amount of those assessments are apparently very minor, and in fact there is some question among the businesses whether they are actually paying tax on inventory that is in the foreign trade zone.

Chairman GIBBONS. Is there an association of trade zones? There is of everything else in the world.

Mr. METHENITIS. Yes, there is. They will be speaking next.

Chairman GIBBONS. Oh, they will be speaking? That is all right. We will speak to them. Yes, I see that we have the National Association of Foreign Trade Zones. I was going to ask them whether they knew of any taxes being collected from any other trade zones. We are a little reluctant to move in and deprive the local community of its taxes if the practice is widespread. If it is just an exception, I do not think there is any serious problem.

Let us see. Mr. Schulze?

Mr. SCHULZE. No questions.

Chairman GIBBONS. Mr. Frenzel.

Mr. FRENZEL. Do other States have the constitutional problem that you have? Are you aware of any?

Mr. METHENITIS. I am aware of one, Kentucky, and what they did was enact—their constitutional provision is a little bit different. The Kentucky Legislature was able to eliminate all local ad valorem tax, through a statute, and then reduce the State ad valorem tax rate applicable to foreign trade zone inventory down to what is the constitutional minimum, which I am told by one of their zone operators amounts to people paying $40 or $50 a year, so it is essentially an exemption that they have been able to enact.

In Texas, we do not have a State property tax. We only have the local taxes. So the Texas Legislature would not be able to reduce the amount of tax that would be paid in the same way that Kentucky has done.

Mr. FRENZEL. Thank you.

I yield the balance of my time.

Chairman GIBBONS. It sounds like you have a good, meritorious bill there, Mr. Leader.

Mr. WRIGHT. Thank you very much, Mr. Chairman.

Mr. DEAN. Thank you very much, Mr. Chairman.

Chairman GIBBONS. Our next witness is from the National Association of Foreign Trade Zones, Mr. Stephen Creskoff.

STATEMENT OF STEPHEN CRESKOFF, COCHAIRMAN, GOVERNMENT REGULATIONS COMMITTEE, NATIONAL ASSOCIATION OF FOREIGN TRADE ZONES

Mr. CRESKOFF. Good morning, Mr. Chairman.

My name is Stephen Creskoff, of the firm of Harris, Berg & Creskoff, representing the National Association of Foreign Trade Zones this morning. It is a pleasure to be here. Mr. O'Connor, who was going to give testimony this morning, was not able to come, unfortunately.

The National Association of Foreign Trade Zones is an association of foreign trade zones grantees, operators, users, businessmen, and professionals interested in foreign trade zones operations. The association represents a large majority of all businesses and individuals involved with foreign trade zone activities. Over 90 percent of business concerns involved with foreign trade zones may be classified as small businesses.

Commercial activity in foreign trade zones in recent years has dramatically increased. Most major automotive manufacturers in the United States are presently either operating in a foreign trade zone or are in the process of establishing foreign trade zone operations.

In addition, oil refineries, pharmaceutical companies, electronics manufacturers, and many other industries are utilizing foreign trade zones today. Foreign trade zone operations have attracted billions of dollars of investment and thousands of jobs to the United States from abroad. Recently, a number of major foreign companies have established for the first time manufacturing operations in the United States in foreign trade zones. Of course, these include Volkswagen, Honda, Toyota, and a number of others.

Moreover, foreign trade zone operations now planned by U.S. automobile manufacturers will allow them to be more competitive with vehicles manufactured overseas.

The U.S. Congress, by passage of the Foreign Trade Zones Act, has created foreign trade zones and foreign trade subzones in areas that are physically within the boundaries of the United States but outside the U.S. customs territory for the purpose of expediting and encouraging foreign commerce.

There are presently approved or pending approval zones in 38 States and in Puerto Rico. In recent years, the U.S. Treasury and Commerce Departments have promulgated changes in foreign trade zone regulations designed to encourage foreign investment and employment in the United States. This policy as expressed in the regulations of these two Departments has had the desired result, we believe.

Between 1970 and 1982 the value of shipments through U.S. foreign trade zones grew from $201 million to over $7 billion, and zone-related employment increased from 1,186 to over 29,000. Indirect employment benefits may amount to between 60,000 to 90,000 additional jobs created, and I think this is a very impressive record over a very short period of time. Approximately 50 percent of all merchandise moving through general purpose zones in 1982 was exported.

In short, congressional and executive branch policies to further foreign trade zone activities have had a substantial positive effect on the U.S. economy during a period when the United States has sorely needed the employment and investment created by zone activities.

Now, the National Association of Foreign Trade Zones supports without qualification the passage of H.R. 717. H.R. 717 provides, in summary, that the foreign goods brought into a foreign trade zone and U.S. goods shipped into a zone for exportation will be exempted from State and local ad valorem taxes.

We believe that this bill reflects current practice in those States under free port laws and similar State legislation. To the extent that this bill will resolve issues favorably for zones in Texas and other States, the association supports it.

Many taxing authorities have refrained from imposing ad valorem personal property taxes on all foreign and domestic merchandise in foreign trade zones. The reasons are clear. Under the Foreign Trade Zones Act and implementing regulations, merchandise in foreign trade zones is not within the Customs territory of the United States.

Similarly, attempts to place a tax directly on merchandise in international commerce have been held unconstitutional by the U.S. Supreme Court. In sum, a pervasive Federal regulatory system provides that foreign trade zones are specially designated enclaves for international commerce, entitled to certain Federal benefits, including exemption from local personal ad valorem property taxation.

Because of the Federal regulatory system described above——

Chairman GIBBONS. How about real property taxations? Are they excluded from that?

Ms. CRESKOFF. Ad valorem, yes. Ad valorem taxation.

Chairman GIBBONS. All ad valorem taxation, or just personal property ad valorem taxation?

Mr. CRESKOFF. Personal property ad valorem taxation.

Chairman GIBBONS. How about real property, buildings and land?

Mr. CRESKOFF. To the best of my knowledge, that probably varies from State to State.

Chairman GIBBONS. Go ahead. Excuse me.

Mr. CRESKOFF. Because of the regulatory system described above, the association believes that State and local taxation of merchandise in foreign trade zones has been preempted. Indeed, the Supreme Court—and the point there, of course, is its ad valorem personal inventory taxation. Indeed, the Supreme Court of the United States, in a case decided only a few months ago, found Federal preemption with respect to merchandise stored in customs-bonded warehouses in Houston, Tex.

The foreign trade zone regulatory system makes it much clearer that foreign trade zones are in international commerce than is the case with customs-bonded warehouses. Therefore, the Supreme Court's recent decision in Xerox Corp. against the County of Harris, Tex., in the association's view, applies without question to State taxation of merchandise held in foreign trade zones.

Unfortunately, as has just been described to the Committee, a particular problem exists with respect to ad valorem property taxes imposed by the State of Texas. It is our understanding that the Texas State Constitution exempts only certain commodities from taxation, and does not specifically exempt commodities in foreign trade zones. Although most Texas taxing authorities have recognized the tax-exempt status of merchandise in foreign trade zones because of the Texas State constitutional problem, there is always a possibility that a particular local taxing authority will attempt to assess an ad valorem personal property tax on inventory in foreign trade zones.

This possibility, which became a reality with respect to merchandise in customs-bonded warehouses in the *Xerox* case, is acting to discourage businesses considering locating in foreign trade zones in the State of Texas. Under Texas law, if a local authority decides to assess an ad valorem inventory tax on merchandise in a foreign trade zone, the businesses in question would be required to pay the assessment and then sue the taxing authority for a refund. This is a process, of course, that can take many years. Even after the Supreme Court's decision in the *Xerox* case, early this year, or actually late last year, many businesses do not want to take this sort of risk.

In conclusion, in order to clarify the nontaxable status of merchandise in foreign trade zones in Texas, the National Association of Foreign Trade Zones strongly urges passage of H.R. 717.

[The prepared statement follows:]

STATEMENT OF JOSEPH F. O'CONNOR ON BEHALF OF THE NATIONAL ASSOCIATION OF FOREIGN-TRADE ZONES

The National Association of Foreign-Trade Zones is an association of foreign-trade zone grantees, operators, users, and businessmen and professionals interested in foreign-trade zones operations. The Association represents the large majority of all businesses and individuals involved with foreign-trade zone activities. Over 90 percent of business concerns involved with foreign-trade zone activities are categorized as small businesses.

Commercial activity in foreign-trade zones in recent years has dramatically increased. Most major automobile manufacturers in the United States are presently either operating in a foreign-trade zone or are in the process of establishing foreign-trade zone operations. In addition, oil refineries, pharmaceutical and electronics manufacturers, and many other industries are utilizing foreign-trade zones. Foreign-trade zone operations have attracted millions of dollars of investment and thousands of jobs to the United States from abroad. Recently, a number of major foreign companies have established, for the first time, manufacturing operations in the United States in foreign-trade zones. Moreover, foreign-trade zone operations now planned by U.S. automobile manufacturers will allow them to be more competitive with vehicles manufactured overseas.

The United States Congress, by passage of the Foreign-Trade Zones Act, has created foreign-trade zones and foreign-trade subzones in areas that are physically within the boundaries of the United States but outside the U.S. customs territory for the purpose of expediting and encouraging foreign commerce. There are presently approved or pending approval zones in 38 states and Puerto Rico.

In recent years, the U.S. Treasury and Commerce Departments have promulgated changes in foreign-trade zone regulations designed to encourage foreign investment and employment in the United States. This policy, as expressed in the regulations of these two departments, has had the desired result. Between 1970 and 1982 the value of shipments through U.S. foreign-trade zones grew from 201 million to over 7 billion dollars, and zone-related employment increased from 1,186 to over 29,000. Indirect employment benefits may amount to between 60,000 and 90,000 additional jobs created. Approximately 50 percent of all merchandise moving through general purpose zones in 1982 was exported. In short, Congressional and Executive Branch policies to further foreign-trade zone activities have had a substantial, positive effect on the U.S. economy during a period where the United States has sorely needed the employment and investment created by zone activities.

The National Association of Foreign-Trade Zones supports without qualification the passage of H.R. 717. H.R. 717 provides in summary that foreign goods brought into a foreign-trade zone and U.S. goods shipped into a zone for exportation will be exempted from state and local ad valorem taxes. We believe that this bill reflects current practices in those states under Free Port laws and similar state legislation. To the extent that this bill will resolve issues favorably for zones in Texas and other states, the Association supports H.R. 717. Many taxing authorities have refrained from imposing an ad valorem personal property tax on all foreign and domestic merchandise in foreign-trade zones. The reasons are clear. Under the Foreign-Trade Zones Act and implementing regulations, merchandise in foreign-trade zones is not within the customs territory of the United States. Similarly, attempts to place a tax directly on merchandise in international commerce have been held unconstitutional. In sum, a pervasive federal regulatory system provides that foreign-trade zones are specially designated enclaves for international commerce entitled to certain federal benefits, including exemption from local ad valorem personal property taxation.

Because of the federal regulatory system described above, the National Association of Foreign-Trade Zones believes that state and local taxation of merchandise in foreign-trade zones has been preempted. Indeed, the Supreme Court of the United States, in a case decided only a few months ago, found federal preemption with respect to merchandise stored in a customs bonded warehouse in Houston, Texas. The foreign-trade zone regulatory system makes it much clearer that foreign-trade zones are in international commerce than is the case with customs bonded warehouses. Therefore, the Supreme Court's recent decision in *Xerox Corp.* v. *County of Harris, Texas* in the Association's view applies without question to state taxation of merchandise held in foreign trade zones.

Unfortunately, a particular problem exists with respect to ad valorem property taxes imposed by the State of Texas. it is our understanding that the Texas State Constitution exempts only certain commodities from taxation and does not specifically exempt commodities in foreign trade zones. Although most Texas taxing authorities have recognized the tax exempt status of merchandise in foreign-trade zones, because of the Texas State Constitutional problem, there is always a possibility that a particular local taxing authority will attempt to assess an ad valorem personal property tax on inventory in foreign trade zones. This possibility, which became a reality with respect to merchandise in customs bonded warehouses in the *Xerox Corp.* case, is acting to discourage businesses considering locating in foreign-trade zones in the State of Texas. Under Texas law, if a local authority decided to assess an ad valorem inventory tax on merchandise in a foreign trade zone, the businesses in question would be required to pay the assessment and then sue the

taxing authority for a refund. Even after the Supreme Court's decision in the *Xerox* case, many businesses do not want to take this sort of risk.

In conclusion, in order to clarify the non-taxable status of merchandise in foreign trade zones in Texas, the National Association of Foreign-Trade Zones strongly urges passage of H.R. 717.

Turning now to H.R. 657, the National Association of Foreign-Trade Zones opposes this bill. H.R. 657 would amend the Foreign-Trade Zones Act to exclude bicycle component parts from foreign-trade zones unless such parts were to be exported from the United States. No commodity has ever before been excluded from foreign-trade zones by amendment of the Foreign-Trade Zones Act.

The Association has two important reasons for strongly opposing this proposal. First, thee is no valid economic reason to single out bicycle component parts for exclusion by statute from foreign-trade zones. Second, the Foreign-Trade Zones Act and implementing Commerce Department regulations (15 C.F.R. § 400.807) provide a safety valve for exclusion of goods and processes if inimicable to "the public interest, health or safety." Thus, an administrative process exists for accomplishing precisely what would be accomplished by H.R. 657. Proponents of H.R. 657 have attempted to utilize this administrative process and a decision is pending.

Two major advantages accrue to importers by use of foreign-trade zones. Import duties are deferred until merchandise leaves the foreign-trade zone and enters the customs territory of the United States. This can result in significant cash flow benefits. In addition, in situations where the tariff on parts or components is higher than the tariff on the finished product manufactured in a foreign-trade zone, manufacture in a zone permits an importer to pay the lower tariff, i.e. the tariff on the finished product, on the value of the imported parts. In the case of bicycle parts, this would permit a manufacturer assembling bicycles in a foreign-trade subzone to pay 5.5 percent, the duty applicable to most of the finished bicycles imported, instead of the higher tariffs applicable to parts. This foreign-trade zone advantage was implemented specifically with the purpose in mind of encouraging employment and investment in the United States. In other words, it was the view of Congress and the Executive Branch that the tariff advantages provided by manufacturing in a foreign-trade zone create employment and investment in the United States that otherwise would be made in foreign countries. Prohibiting the entry of bicycle parts into foreign-trade zones would frustrate this policy objective leading to more bicycles being manufactured overseas and imported at the 5.5 percent ad valorem rate, and less bicycles being manufactured in the United States.

Secondly, even assuming that proponents of H.R. 657 had valid economic policy arguments for excluding bicycle parts from foreign-trade zones, the Association opposes the proposed legislation on the ground that proponents of it have failed to exhaust a pre-existing administrative remedy specifically provided by Congress in the Foreign-Trade Zones Act. As mentioned previously, the Act and implementing regulations permit the Foreign-Trade Zones Board to exclude goods and processes from foreign-trade zones if they are found to be detrimental to the public interest. We have been informed that the proponents of H.R. 657 have requested the Foreign-Trade Zones Board to conduct such a public interest investigation in connection with a zone application, and that the matter is now pending at the Commerce Department. This administrative process should be permitted to continue to conclusion.

For the reasons expressed above, the National Association of Foreign-Trade Zones is in opposition to H.R. 657.

Thank you for your time. I'll be happy to answer any questions that you may have.

Chairman GIBBONS. Then the rest of your testimony goes on.

Mr. CRESKOFF. Yes, Mr. Chairman. The rest of my testimony pertains to H.R. 657.

Chairman GIBBONS. Well, let us skip over that one for now. Tell me about the *Xerox* case.

Mr. CRESKOFF. I think Mr. Methenitis might be more familiar with it than I.

Chairman GIBBONS. Mr. Methenitis, do you want to tell us about the *Xerox* case?

Mr. METHENITIS. Xerox was manufacturing copiers in Mexico for the Latin American market. In the early seventies, Xerox was storing the copiers in the free trade zone in Panama. Because of politi-

cal instability in Panama in 1974, Xerox moved the merchandise to a bonded warehouse in Houston. Xerox was aware of the ad valorem tax issues, and in fact, to insure the copiers would not be subject to tax, obtained an exemption letter from Harris County saying, in effect, "we are not going to tax you."

In 1976, the city of Houston and Harris County changed their minds and decided to tax the inventory. The Texas Court of Civil Appeals held the exemption letter invalid because of the Texas Constitution provisions, and upheld the tax. Xerox appealed to the Supreme Court of the United States, and finally, in December of last year, received a ruling in its favor, that the ad valorem tax had been federally preempted. Meanwhile, Xerox moved all its goods back out of Texas.

Mr. CRESKOFF. And, of course, the basis for the Supreme Court decision is that there was—the Court found a pervasive Federal regulatory system or scheme that preempted any State action in that case. We think that that is even more true with respect to foreign trade zones in the proposed legislation here. It just clarifies the situation, that it will be a tremendous benefit to businesses seeking to use zones in Texas.

Chairman GIBBONS. Does the National Association of Foreign Trade Zones know whether any other States or whether there is any large dependency upon these foreign trade zones as sources of ad valorem taxation? It sounds like you have a real good case here, but I would hate to barge ahead and find out a few months down the road that we have knocked some city, county, or State out of collecting taxes that they have been relying on for a long amount of time. We would have a policy question that we did not look at then.

Mr. CRESKOFF. We have questioned our membership on this very issue, and we were informed that Texas is the only State where this problem exists.

Chairman GIBBONS. Mr. Jenkins.

Mr. JENKINS. Thank you, Mr. Chairman.

Let me ask a question, because I am not sure that I am totally familiar with the operation of foreign trade zones. Are these just warehouses, or are there manufacturing operations?

Mr. CRESKOFF. Today there are very extensive manufacturing operations in foreign trade zones. The zones are essentially enclaves outside the Customs territory of the United States, but physically within the United States, and goods that move in and out of zones are not subject to the usual Customs requirements. There is inspection when goods leave the zones, but not when goods enter the zones, for example. In effect, foreign trade zones in the United States are a historical extension of the free zone concept that probably originated with the Hansiatic League in the thirteenth and fourteenth centuries.

Mr. JENKINS. Could you have and do you have manufacturing operations within the foreign trade zone?

Mr. CRESKOFF. Yes, sir.

Mr. JENKINS. Would the goods manufactured there be for export only? Could they be used domestically as well as for export?

Mr. CRESKOFF. In some cases, for export only. In other cases, for domestic consumption and for export. For example, I think that

most major automotive manufacturers, General Motors, Ford, Chrysler, American Motors, in addition to a number of foreign manufacturers, are either contemplating operations in foreign trade zones or are now, as in the case of American Motors, for example, operating in foreign trade sub-zones.

Mr. JENKINS. Would the inventory from a manufacturing operation within a foreign trade zone under this bill be exempt from ad valorem taxation by local authorities?

Mr. CRESKOFF. Well, this bill speaks only to foreign origin inventory and domestic origin inventory that is destined for export.

Mr. JENKINS. Would there be any difference between an operation outside of the trade zone and within the trade zone? You may have one situation where the property would be subject to ad valorem tax and one that would not. Is that correct?

Mr. CRESKOFF. That is correct. And the reason for that, of course, is that operations in a foreign trade zone are outside the Customs territory, outside Customs jurisdiction, in effect, and therefore considered at least for many purposes to be foreign operations.

Mr. JENKINS. There are similar foreign trade zones in other areas of the country?

Mr. CRESKOFF. Oh, yes. There are many foreign trade zones all over the country, I think on the order of 80 zones and sub-zones at this point in 38 States and in Puerto Rico.

Mr. JENKINS. This bill would provide for a preemption as to all of them. Is that correct? Or just to Houston?

Mr. CRESKOFF. Well, it is focused specifically on the Texas constitutional situation. We think that Federal law already provides for this preemption, but the practical business problem is that it is difficult to convince business people to enter into a zone to take advantage of a zone operation if there is some possibility that local authorities will nonetheless, irrespective of Supreme Court decisions, impose an ad valorem inventory tax, and the business person would have to then litigate that tax, hopefully not to the Supreme Court at this point, but nonetheless there would be a period of years of uncertainty.

And what this legislation would do is clarify that situation. That is, in effect, restate law as it has already been stated by the Supreme Court of the United States, in our view.

Mr. JENKINS. Is the language of the bill directed only to your particular foreign trade zone?

Mr. CRESKOFF. No, it has general application.

Mr. JENKINS. So the committee would not be in a problem of making a difference between foreign trade zones. It would be a general application.

Mr. CRESKOFF. That is right. The particular problem as we understand it is that the Texas State Constitution, and I take it also the Kentucky State Constitution, provide that an ad valorem inventory tax must apply unless specifically excluded in the Constitution. Is that not correct, Mr. Methenitis?

Mr. METHENITIS. That is essentially it.

Mr. CRESKOFF. So it is a State constitutional problem.

Mr. JENKINS. Let me ask one further question for clarification. This relates only to property for export or a foreign origin. Is that correct?

Mr. CRESKOFF. That is correct.

Mr. JENKINS. Is there any problem with products of foreign origination? Could they have then been assembled and made into a different product within the trade zone?

Mr. CRESKOFF. They can and they are today. For example, automobiles are assembled by Volkswagen Corp. of America in New Stanton, Pa., from at least some foreign parts.

Mr. JENKINS. For example, is there any conflict between the domestic manufacturers where you may have foreign origin product automobile being exempt from ad valorem tax in the assembly process within a foreign trade zone, and a domestic manufacturer, of course, outside being subject to the ad valorem?

Mr. CRESKOFF. Well, I think that that is a possibility, of course. I think many, if not most domestic manufacturers are moving to zone operations at this point, but of course the policy reason for encouraging zone operations is to bring that foreign investment to the United States and to bring employment to the United States, and we think that the record over the last 10 or 11 years has been very good in that respect, with 29,000 new jobs created, approximately, and between 60,000 and 90,000 jobs indirectly created from the growth of zone operations.

Mr. JENKINS. Well, the only question I had, and maybe it does not apply, but if I had an automobile manufacturing plant, since we are talking about automobiles, a domestic manufacturer in the Atlanta area, I have a foreign trade zone at the airport where there is an import assembly plant. There may very well be a situation where my domestic plant would be subject to the inventory tax, and my foreign trade zone manufacturing plant would be exempt from ad valorem tax?

Mr. CRESKOFF. Yes, assuming your domestic plant was utilizing foreign parts, and that it did not utilize the benefits that would result from locating in a foreign trade sub-zone.

Mr. JENKINS. Thank you, Mr. Chairman.

Chairman GIBBONS. Mr. Schulze.

Mr. SCHULZE. Just one brief question. What are the closest foreign trade zones to Houston? Are there foreign trade zones in Oklahoma or Louisiana?

Mr. CRESKOFF. Well, there is a foreign trade zone in Houston, of course.

Mr. SCHULZE. That is in Texas.

Mr. METHENITIS. There is not a foreign trade zone in Houston.

Mr. CRESKOFF. There is an application pending. There is a zone in Dallas. There is a zone in Tulsa, I think, a zone in New Orleans.

Mr. METHENITIS. Brownsville, San Antonio, McAllen.

Mr. SCHULZE. The reason I ask that, have we had any—it would seem to me that this would put a neighboring foreign trade zone in an advantageously competitive position. Have you found this to be true?

Mr. METHENITIS. Well, not with the Texas zones. This bill would apply equally to all Texas zones.

Mr. SCHULZE. I am talking about without the bill.

Mr. METHENITIS. Well, the other States are not being impacted, so it is more of a disadvantage in Texas' case.

Mr. SCHULZE. That is what I mean. Do you find this puts the other zones outside of the State of Texas in a competitively advantageous position?

Mr. METHENITIS. I am sure it does. A lot of the businesses that move into foreign trade zones are interested specifically in the trade routes that cross a particular location, and so historically there has not been really fierce competition among foreign trade zones. The business decision has generally been, if you want to be in Dallas-Fort Worth, do you locate in the Dallas-Fort Worth foreign trade zone or not. If you want to go to Buffalo or San Juan, Puerto Rico, you go there. Certainly if there was that kind of opportunity where location was not important, and all factors between zones in and out of Texas were equal, the ad valorem tax situation would be a disadvantage to Texas zones.

Mr. SCHULZE. But there has been no opposition from any of these, let us say, competitive zones to this legislation?

Mr. CRESKOFF. Well, absolutely not. The National Association of Foreign Trade Zones represents at least in part all of the other zone operators and users in question, and there has been no opposition, to my knowledge.

Mr. SCHULZE. Thank you.

Thank you, Mr. Chairman.

Chairman GIBBONS. Mr. Pease.

Mr. PEASE. Thank you, Mr. Chairman.

I gather that the government officials in Texas or at least in your area are amenable to this change.

Mr. METHENITIS. The city of Irving, which is the city that the Dallas-Fort Worth foreign trade zone is physically located in, made a public statement as recently as November, even before the *Xerox* case, that it had no intention of putting this merchandise on its tax roll because it thought the inventory was in foreign commerce. But the cities, of course, can change their minds.

Mr. PEASE. So it is not currently being taxed, is that correct?

Mr. METHENITIS. That is correct.

Mr. PEASE. From the briefing materials we received, I thought the problem was that under the Constitution you could not exclude any categories of merchandise that were not mentioned in the Constitution.

Mr. METHENITIS. That is correct, but the statute also recognizes that goods that have been federally preempted are exempt. The problem, particular problem, is that a statute cannot be enacted telling you what has been federally preempted, so it is left up to the local authorities to make that determination.

Mr. PEASE. The local authorities, I gather, have not been taxing it on the assumption that there is an implicit Federal preexemption. Is that right?

Mr. METHENITIS. That is correct.

Mr. PEASE. Could we ask, Mr. Chairman, the Joint Committee on Taxation to look at the situation in the other 49 States so we can determine the broader implications of this proposal?

Chairman GIBBONS. Yes, we can do that, but I do not know whether they will be able to tell us. There is a lot they do not know about local taxes.

Mr. PEASE. Well, there are 50 different State constitutions. I think the Ohio constitution may well be similar, that you cannot exempt anything by statute. The laws have to be uniform in application. I would be curious to know what the pattern is across the States and how big an exemption we are opening up here.

Chairman GIBBONS. We will ask the Joint Tax Committee. We will also ask the legislative reference service to see if they know. I would hate to involve them, but there is a whole association of State tax collectors which, if you turn them on, will really buzz. They may not have discovered this one yet. [General laughter.]

That is what worries me. You know, California taxes like a sovereign nation. We have had a little trouble with that. Oregon has followed California, and other States have followed California and Oregon, and I do not know where all of this leads.

Mr. PEASE. Well, it is sort of a delicate situation. One does not want to alert potential opponents if the opposition is spurious and might defeat a good proposal that is before the committee. On the other hand, one hates to legislate in the dark and be ignorant of the effect that it would have on other States.

Chairman GIBBONS. I agree.

Mr. PEASE. I have no further questions.

Chairman GIBBONS. That is why I was hoping this association would know something about it. As far as you know, no other States collect this tax? It is only that one little city in Texas?

Mr. CRESKOFF. That is correct, Mr. Chairman.

Chairman GIBBONS. Mr. Hance, you are a Texan. Go ahead.

Mr. HANCE. I guess your biggest concern is that, even though the people on the local level are cooperating with you at this time, that you might have a change in attitude, especially if there is a change in city government. With pressures on city budgets, the business people in these trade zones might get caught in the middle, and for that reason they are somewhat reluctant to look at some of these trade zones?

Mr. METHENITIS. Yes, sir. That is exactly it.

Mr. HANCE. Thank you.

Mr. PEASE. Would the gentleman yield?

Mr. HANCE. I would yield.

Mr. PEASE. I appreciate the gentleman's yielding. Another question just occurred to me. In the typical foreign trade zone or in yours, either one, when goods are brought into the zone, do they have value added and then are shipped back out of the country again, or are they typically brought in and have value added and then are introduced in the U.S. market?

Mr. CRESKOFF. In the most recent period of time, I would say that in general purpose foreign trade zones, about 50 percent of the goods entering the zone are then reexported. The other 50 percent enter the United States. Some of that 50 percent would be further processed, and some of it would just simply be stored.

Mr. PEASE. The 50 percent that enters the U.S. market, does that typically have value added in the foreign trade zone before introduction into the U.S. market occurs?

Mr. CRESKOFF. I would hesitate to assign a percentage, but I would say based upon the overall dollar volume I am acquainted with; yes.

Mr. PEASE. My interest was piqued by Mr. Jenkins' comment earlier. If two companies are both importing parts from overseas into the Dallas-Fort Worth area, and one locates in the foreign trade zone and one does not, and they are both adding value to those parts from overseas, and then selling them as finished products, and they are in competition, it seems to me that the company that locates outside of the foreign trade zone but still within the confines of Dallas-Fort Worth is subject to the tangible personal property tax on the inventory, and while it is going through the manufacturing process——

Mr. CRESKOFF. They are also subject to customs duties when the parts enter the customs territory of the United States, whereas the firm in the zone is not subject to customs duty, either.

Mr. PEASE. When the product leaves the foreign trade zone and goes into the U.S. market would it be subject to another set of customs duties on the finished product, as opposed to the parts?

Mr. CRESKOFF. That is right.

Mr. PEASE. Am I missing something? It seems to me that the company that locates in the foreign trade zone has a tax advantage that saves local taxes which can be considerable on its inventory during the manufacturing process.

Mr. CRESKOFF. Mr. Pease, I think the answer to that would be simply that a company would have the same opportunity under the *Xerox* case, the Supreme Court decision, to store the merchandise in a customs-bonded warehouse and be exempt, if it was foreign merchandise, from local ad valorem taxation.

Mr. PEASE. Well, again, maybe I am missing something, but during the manufacturing process, you get raw materials and parts in, and typically those are held for 4 or 5 months while you are in the process of completing the manufacturing. In addition, you are paying tangible personal property taxes on that equipment, and you could not, to use your example, put that in a bonded warehouse, because then you could do the manufacturing.

So it seems to me if there is a situation that would disadvantage the manufacturer who chooses to locate outside the foreign trade zone. From your point of view, that is fine. It encourages people to locate in your zone. I can see the rationale for exempting those items from local taxes if they come into the foreign trade zone and are manufactured and go out of the country. There obviously would not be any direct competition with U.S. manufacturers.

Would you have any objection to limiting the exemption to those items which are ultimately shipped back out of the country?

Mr. METHENITIS. I believe the bill really does that. It is talking about two classes of goods. It is talking about all foreign origin goods for the period of time that they are in the zone, and domestic origin goods that are destined for export. Someone cannot, under this bill, bring in a bunch of merchandise, store it in a foreign trade zone, and ship it back out into the United States and evade taxes. This is not a tax-haven kind of measure.

Mr. PEASE. The personal property taxes would not be exempted in that situation?

Mr. METHENITIS. No. This bill does not address domestic origin goods that are brought into a foreign trade zone and then shipped back out into the domestic market.

Mr. PEASE. I was not thinking of that. Let us think of an example. Let us say widgets. We are bringing in the parts for widgets and assembling them here in the United States, and then putting them into the U.S. market, selling them in the United States. If the widgets are brought in from, say, Jamaica, or wherever, to the foreign trade zone and spend 4 months in the assembly process, then there is no tangible personal property tax on them.

On the other hand, if they are brought into Dallas itself and not the foreign trade zone, during that 4 months personal property taxes are paid on them. Then once the widgets are assembled in each case they go into the U.S. market. Presumably the ones that are assembled in the foreign trade zone have a lower product cost because the taxes have been exempted.

Mr. METHENITIS. If you are looking at components being brought into a foreign trade zone, the—suppose, for instance, that the aggregate of the components necessary to manufacture widgets being brought into the United States would be more expensive, as to tariff duties, than is the finished product, and that is the reason the company is deciding to use the foreign trade zone. The option the business would have would be to make widgets in Jamaica and bring them into the United States at the lower tariff rate, or bring the components into a United States foreign trade zone and manufacture widgets in the zone, and bring the widgets into the domestic market under the lower tariff rate. That is the whole purpose of having foreign trade zones, to entice that business from overseas to the United States, to create U.S. jobs and capital investment.

Mr. PEASE. It seems to me that Mr. Schulze is concerned about the same thing I am, that we not build into our tax system incentives for people to manufacture outside the United States or in any way disadvantage American manufacturers. I guess I am a little concerned about this bill from that point of view.

Mr. CRESKOFF. Well, Mr. Pease, in the hypothetical that you posed, both manufacturing operations take place geographically in the United States, and we feel that, of course, the—that the Foreign Trade Zones Act is intended to encourage investment, if you will, businesses investing in the United States, because they have this type of benefit in terms of customs duties. The alternative we feel would be location in a foreign country and manufacture in a foreign country, so that there is a tradeoff in that there is a designed encouragement of location of business, foreign businesses in the United States, foreign investment in the United States.

Mr. FRENZEL. What is the ad valorem tax? What is the percentage?

Mr. METHENITIS. In Texas it varies in each community.

Mr. FRENZEL. What is it in Irving?

Mr. METHENITIS. I think 0.0074, is what the city-county aggregate is.

Mr. SCHULZE. How about in the *Xerox* case?

Mr. METHENITIS. I do not remember the percentage. I can tell you what the amounts were. They were looking at roughly $211,000 in 1977 in total ad valorem taxes. That would be city and county.

Mr. FRENZEL. In Irving, they are not significant taxes?

Mr. METHENITIS. Personal property ad valorem tax is a minor part of the tax base, anywhere in Texas. The tax base is primarily sales tax and real property tax.

Mr. FRENZEL. So the local governments really do have lots of ways to get at the problem?

Mr. METHENITIS. Well, sure.

Mr. FRENZEL. Either with wage taxes or sales taxes or whatever?

Mr. METHENITIS. And real property tax, which this bill does not address and ad valorem tax on equipment which is used in the manufacturing process, which would similarly not be exempt. This bill is dealing with inventory, and not with equipment used in the manufacturing process.

Mr. FRENZEL. And, of course, to get the benefits of this particular bill, the company has to move into rather high-cost ways.

Mr. METHENITIS. There is a user fee involved, of course, with the jurisdiction surrounding the foreign trade zone.

Mr. FRENZEL. Thank you.

Chairman GIBBONS. Are there any other questions?

[No response.]

Chairman GIBBONS. Thank you very much.

Mr. Schulze, your bill is next.

STATEMENT OF RICHARD T. SCHULZE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. SCHULZE. Mr. Chairman, in the interest of time for the Committee, I would ask that my formal statement be entered into the record.

[The prepared statement follows:]

STATEMENT OF HON. RICHARD T. SCHULZE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. Chairman, I would like to thank the Chairman and Members of the Trade Subcommittee for the opportunity to appear before you today regarding a matter about which I have great concern. That matter relates to what I consider to be a fundamental right of all Americans, the right which is commonly referred to as "the right to know".

As Members of this Committee are clearly aware, the United States annually increases its level of foreign trade with the nations of the world. In many ways this is a development that serves the interests of both the United States and our trading partners. There are problems which result from such rapid increases in trade as well. One of those problems is that products may enter our market and become available to the American consumer in such a fashion as to not allow them to be fully aware of what it is that they are purchasing.

A clear case in point, Mr. Chairman, involves imported canned mushrooms. The level of canned mushroom imports now constitutes 45 percent of the domestic market. In addition to the adverse impact that this development has had on the growers and processors of mushrooms in our own country, American consumers are increasingly faced with less and less choice about where the mushrooms come from that they are able to purchase in their grocery stores. Worse yet is the fact that they probably do not know that an increasingly large share of those mushrooms were not grown in the U.S., but are imported.

It is understandable that foreign countries would want to trade with the United States. We are the largest market in the world, and the American dollar is one of the most stable and valued currencies. However, in their zealous pursuit of America's market and hard currency, foreign countries occasionally are not able, or do not care, to be certain that the products they send us meet the rigorous standards to which we are accustomed. It is unfortunate, but irrefutably true.

During the period from 1979 through the first six months of 1982, mushrooms entering the United States from overseas had been detained at the port of entry by

the U.S. Food and Drug Administration for a variety of rather disturbing reasons. Allow me to cite from computer print-outs compiled by the F.D.A. which list just some of the reasons for refusing entry to shipments of canned mushrooms: "Insect Filth/Damage", "Pesticide-N.E.C. (Not otherwise classified)", "Abnormal /Damaged Cans/Containers", MFR (Manufacturer) Held Under Insanitary Conditions", "Violates FPLA (Fair Product Labeling Act)", "Filth-N.E.C.", and "Underprocessed".

Less than two weeks ago the F.D.A. announced the recall of 14,000 cans of canned mushrooms that had passed through Customs and F.D.A. inspections upon entering the United States and had reached the shelves of stores in New York state. The recall was prompted by the discovery of swollen cans in a grocery store in Schenectady. They are being recalled because of possible "Underprocessing", meaning that they may have not been sufficiently heat-treated, a procedure which is necessary to kill potential bacteria which can grow and produce health threatening toxins. Additionally, five other codes from the distributing chain are being recalled because some of the suspected underprocessed cans may have been mixed with them. These imported mushrooms had reached the American consumer, having already been subjected to the inspection of the U.S. Customs and Food and Drug Administration officials.

Is this problem rare? Hardly. As I noted earlier, foreign countries anxious to secure hard currency for their own needs may be tempted to be less than scrupulous in their efforts to make certain that products which they send to the United States are safe and sanitary. "Underprocessing" is an example of what can happen when adequate inspection and safeguards are not imposed. The result can be imports that are unhealthy, and even dangerous. Certainly the entirety of the blame can not be laid at the feet of Customs and the F.D.A. As the level of imports increases, and the ranks of these agencies are thinned by attrition and budget cuts, they simply can not inspect every container that enters our market. Yet in one year, 1981, just one country, the People's Republic of China, had nearly 9 million pounds of canned mushrooms held at the port of entry for the kinds of reasons that I cited earlier. Who can guess at the amount that entered, and what the results were?

H.R. 1908 is proposed as a partial solution, one that would at least allow the American consumer to know where the mushrooms they may be about to purchase came from. It would require that when canned mushrooms enter a U.S. port they be labeled to identify the country in which they were originally grown. H.R. 1908 is complemented by H.R. 1909, a bill requiring that once those imported mushrooms have become part of U.S. domestic commerce and are reprocessed here, those cans must also note the original growing country. Then the American consumers will be able to decide for themselves whether they would prefer to purchase mushrooms grown in this country, or those that have come from some foreign land. I would venture that the citizens of Schenectady would support my proposal; I hope that my colleagues will as well.

Thank you, Mr. Chairman.

Mr. SCHULZE. And I would like to have the privilege at this time to introduce a very prominent member of the Chester County business and agricultural community. He is Dick Edwards, who is accompanied today by his wife, Marge.

Chairman GIBBONS. Mr. and Mrs. Edwards, we are glad to have you here, and we are glad to have you represented by your distinguished Congressman, Mr. Schulze.

Mr. SCHULZE. He has been a mushroom grower for 28 years, and is a member of the board of the AMI and past president of the NFU in Chester County, and has a very distinguished record of civic service and service to the agricultural community in our area in the Commonwealth of Pennsylvania, and it is a privilege to have him here today to testify on this issue.

Chairman GIBBONS. Mr. Schulze, we will put your statement and that of Mr. Edwards' in the record, and let you proceed as you wish.

STATEMENT OF RICHARD W. EDWARDS, MEMBER, AMERICAN MUSHROOM INSTITUTE, ACCOMPANIED BY MARGE EDWARDS

Mr. EDWARDS. Thank you, Mr. Chairman.

I want to commend the Ways and Means Subcommittee on Trade for considering legislation to redress some of the trade inequities which are crippling so many of American industries. On behalf of the American Mushroom Institute and nearly 200 growers it represents, I respectfully seek your support for H.R. 1908, which was introduced by U.S. Representative Richard T. Schulze of Pennsylvania.

As you know, H.R. 1908 would amend the 1930 Tariff Act to require containers of imported processed mushrooms to have label identification of the country where the mushrooms were grown. This would amount to a minor but significant change in current law which merely requires identification of the nation of last processing.

It is important to recommend that H.R. 1908 would neither impose protectionistic barriers against foreign trading partners nor mandate excessive unreasonable labeling standards. The provisions of H.R. 1908 are completely justified for insuring the disclosure of pertinent information to America's consuming public.

Indeed, without the information mandated by H.R. 1908, unsuspecting American consumers would be misled into the potentially harmful belief that their canned mushrooms were grown under America's rigorous health and safety standards. Consumers deserve the right to know whether the mushrooms canned by American processors were also grown in accordance to American standards.

Under current law, this vital information is withheld from the public. H.R. 1908 would enable informed, intelligent consumer choices by removing the confusion and false impressions created by such deficient labeling. Knowledge of a mushroom's origin of growth is no idle concern. Random inspection by the U.S. Customs Service have documented an alarming incidence of foreign matter present in imported processed mushrooms.

Unfortunately, not every can of mushrooms which reaches our shores from overseas can be inspected. Equally troubling is the reluctance of such nations as the People's Republic of China to reveal their growing and processing practices. American experts have been kept in ignorance by the PRC, for example, on such critical health factors as the composition of that nation's mushroom growing compost.

A Pennsylvania State University professor recently was denied entry by the PRC except under the condition of being banned from all mushroom operations and information.

Unfortunately, H.R. 1908 cannot guarantee that every foreign shipment of mushrooms is properly inspected for the benefit of American consumers, nor can H.R. 1908 insure that foreign mushroom agricultural practices are as safe or healthful as their American counterparts. Perhaps those issues warrant the further scrutiny of this Congress. Until that time, however, the public deserves at a minimum to have the benefit of full disclosure regarding that processing and growth origins of canned mushrooms on American merchants' shelves.

Finally, it is regrettable that H.R. 1908 cannot reverse the PRC's predatory trade practices which have pushed America's mushroom industry to the brink of collapse. From little more than one-quarter million pounds exported to the United States in 1979, to over 35 million pounds which entered last year, the PRC has virtually displaced American grown mushrooms from U.S. processing markets, and with the loss of those markets, our Nation also lost many jobs, and sunk deeper into a balance of trade deficit.

Until long overdue trade reforms are established on a broad scale, however, at least H.R. 1908 would alert sensitive consumers to canned mushrooms whose purchase would further harm the economic survival of American growers.

The American Mushroom Institute is convinced that enactment of H.R. 1908 is necessary to protect the public welfare, and would impose no unreasonable burden on the responsible parties here or abroad. No legitimate interest would be served, moreover, by holding information which H.R. 1908 seeks to disclose.

On behalf of the American Mushroom Institute, I am grateful for the opportunity to appear before the subcommittee, and sincerely request your favorable action on H.R. 1908 as expeditiously as possible.

Chairman GIBBONS. Mr. Schulze.

Mr. SCHULZE. Thank you, Mr. Chairman.

Dick, would you please tell the committee about the requirements with which you must comply which in fact are mandated by the U.S. Government in order to grow, process, and sell mushrooms?

Mr. EDWARDS. We must have a pesticide applicator's license to protect the consumer against insecticides that might be harmful, and we have to pass a test for that, and keep updated on it periodically by going to meetings.

Mr. SCHULZE. Are you knowledgeable about the canning and processing standards in this country versus other countries?

Mr. EDWARDS. Well, as a grower, I am not as aware of them as a processor would be, but I understand that their standards in no way meet ours.

Mr. SCHULZE. How about growing standards?

Mr. EDWARDS. Yes; we have to answer to the Food and Drug Administration, the EPA, and USDA, and DER, and then there is the MSPA that was just passed in July.

Mr. SCHULZE. Are you aware of mushrooms which are exported to the United States and enter our country as a product of a country other than the one in which the mushrooms were actually grown?

Mr. EDWARDS. Yes. Hong Kong and Macao are two of those countries.

Mr. HANCE. I am sorry, I could not hear that answer.

Mr. EDWARDS. Hong Kong and Macao.

Mr. SCHULZE. What have been the end results to the American consumer and the American mushroom industry as a result of this transshipping process?

Mr. EDWARDS. Well, the consumer is the one that is harmed the most, because the label not being identified as to where the mush-

rooms are coming from, they are misled as to thinking that they are grown in this country.

Mr. SCHULZE. Have there been problems with imported mushrooms?

Mr. EDWARDS. Yes; there have, but I am not as familiar with those, being a grower. I think your report, your testimony——

Mr. SCHULZE. Well, I did discuss much of that with the committee the other day. That is why I thought I would not give my formal presentation, because most of them are aware of that. Dick, are you aware of the type of, or have any knowledge of the type of compost which is used in, for instance, the PRC or other Oriental countries?

Mr. EDWARDS. They would not allow us to know what they use in their compost. As I testified——

Mr. SCHULZE. I have heard that human waste is used. Have you heard that?

Mr. EDWARDS. I have heard that, too, but I have no way of confirming it.

Mr. SCHULZE. Dick, what do you feel would be the most valuable benefit from the enactment of this legislation?

Mr. EDWARDS. The consumer would know what he was buying. That is the main concern, I think.

Mr. SCHULZE. I thank you.

Mr. Chairman, one of the things that I would ask be placed in the record is an announcement from HHS dated April 29, 1983, that the Food and Drug Administration announced the recall of 14,000 cans of imported mushrooms which had been improperly treated and were suspected of potential botulism.

Chairman GIBBONS. All right, sir. Fine. We would be glad to put that in the record.

[The material referred to follows:]

[HHS News, Apr. 29, 1983]

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES,
FOOD AND DRUG ADMINISTRATION,
New York, April 29, 1983.

The Food and Drug Administration and SSC International Inc., Hackensack, N.J., today announced a recall of about 14,000 eight-ounce cans of imported mushrooms because of possible underprocessing. The cans are labeled "Price Chopper Pieces and Stems" and sold by Price Chopper stores in Schenectady, Albany and Syracuse, N.Y.

There have been no reports of illness or death.

Canned mushrooms must be heat-treated during processing to kill potential bacteria that can grow and produce a toxin that may cause botulism, a rare but often fatal disease.

So far, tests conducted by FDA and the firm have failed to show the toxin present in any of the samples. Nevertheless, as a precautionary measure SSC International, the importer, is voluntarily recalling one code that may have been underprocessed. In addition, cases of five other codes are being recalled from the distribution chain because some of the suspected underprocessed cans of mushrooms may have been mixed with them.

The code suspected of being underprocessed is as follows: MPS on the top line, followed by FCF on the second line, and the number 3119 on the third line. The code can be found on the top or the bottom of the can.

Consumers who have cans with this code should return them unopened to the place of purchase. Some of these cans may be swollen or leaking. The canned mushrooms were processed by Five Continents Food Co., Ltd., in Taichung, Taiwan. The recall was prompted by the discovery of four swollen cans in a Price Chopper store in Schenectady.

FDA has designated this a Class I recall—top priority—and will check all retail outlets that receive the product to ensure that all of the cans possibly contaminated are removed from stores.

Chairman GIBBONS. Are there any questions from the other members of the committee?

[No response.]

Chairman GIBBONS. Thank you, Mr. Edwards. We appreciate your testimony.

Next we have the administration, represented by the Department of Agriculture, the International Trade Commission, and the Department of Commerce. If they would all come forward, please.

STATEMENTS OF CAROL HARVEY, DEPUTY DIRECTOR FOR ANALYSIS, DAIRY, LIVESTOCK AND POULTRY DIVISION, FOREIGN AGRICULTURAL SERVICE, DEPARTMENT OF AGRICULTURE; BRUCE JON MILLER, DIRECTOR, CONSUMER GOODS AND AUTOMOTIVE INDUSTRIES DIVISION, INTERNATIONAL TRADE ADMINISTRATION, DEPARTMENT OF COMMERCE; AND LEO WEBB, ATTORNEY, OFFICE OF TARIFF AFFAIRS, U.S. INTERNATIONAL TRADE COMMISSION

Mr. MILLER. Mr. Chairman, we are going to address the glove bill and the feather and down bill.

Chairman GIBBONS. How about mushrooms? Are you going to talk about mushrooms?

Mr. MILLER. We already did.

Chairman GIBBONS. I thought maybe you were coming back for another one. All right, let us go. Fire away.

Mr. MILLER. All right, Mr. Chairman.

Let me first ask the Agriculture Department to address the feather and down bill.

Ms. HARVEY. My name is Carol Harvey, and I understand the last time I was here after I left you asked the Department to get its ducks in a row, so I think we tried to do that.

Essentially we have no objection to the bill as it stands except that we think that you might consider not making the extension for 5 years but for 3 years. The reason for that being that we have had a pretty difficult time trying to assess just what effect this has had on the industry.

We have talked to some processors, particularly duck processors, and they do feel that imports are not always helping them out. If you look at imports in the last few years, they have fluctuated. They have gone from about 4,500 metric tons all the way up to about 7,500 metric tons.

So assessing any kind of direct impact is not all that easy. They have gone up and down and were down last year. But just in order to give the industry, or the producers, a chance to ccme back at this, should it give them a problem, a little bit more quickly, we would suggest that you look at a 3-year instead of a 5-year extension.

Chairman GIBBONS. All right. Mr. Frenzel.

Mr. FRENZEL. I was going to say we worked on that bill last year, and as I recall we almost always passed 3-year bills anyway, so maybe this suggestion is a reasonable one.

Chairman GIBBONS. Are there any feathers and duck men here on my right?

[No response]

Chairman GIBBONS. All right. Thank you very much. Do you want to go on to the next one, gloves?

Mr. MILLER. Thank you, Mr. Chairman. The last time I was here the administration indicated that H.R. 1938 was not acceptable in its present form, and we indicated our willingness to work with the industry representatives to work out the problems. Since that time we have met——

Chairman GIBBONS. Is this gloves we are talking about, H.R. 1938?

Mr. MILLER. Yes. This is gloves.

Chairman GIBBONS. Is that the fourchettes?

Mr. MILLER. Yes.

We have met with the industry, and we believe we have arrived at a solution that meets our concerns and accomplishes the purpose of the proposed legislation. Our concern focused on the fact that the bill as originally introduced would have the unintended effect of increasing duties on certain gloves not produced in the United States.

We are proposing that section 1(b) of the bill be amended to read and I quote "by striking textile fabric and/or sidewalls in item 7085." We believe that this amendment will clarify the tariff treatment of work gloves without an adverse effect on domestic producers of dress gloves.

Chairman GIBBONS. All right. Be sure that our staff has that language and we will try to move ahead on that.

Mr. MILLER. We have provided that to the staff, Mr. Chairman.

[The information referred to follows:]

PROPOSED AMENDMENT TO H.R. 1938

PROPOSED AMENDMENT

(b) By striking "textile fabric" and "or sidewalls" in item 705.85.

CURRENT TARIFF ITEM

705.85—With textile fabric fourchettes or sidewalls; or with the outer surface thereof (except as to applied cuffs, if any) wholly of plastics, and the seams of which are heat sealed and not sewn or stitched.

TARIFF ITEM AS AMENDED

705.85—With fourchettes; or with the outer surface thereof (except as to applied cuffs, if any) wholly of plastics, and the seams of which are heat sealed and not sewn or stitched

Chairman GIBBONS. All right. Fine. What else have you got this morning?

Mr. MILLER. Mr. Chairman, I believe that is all we had unless there are questions from the committee.

Chairman GIBBONS. Do the members have any questions?

[No response.]

Chairman GIBBONS. Thank you very much.

Mr. MILLER. Thank you, Mr. Chairman.

Chairman GIBBONS. The next bill is H.R. 2042 by Mr. Studds concerning fish nets. The Honorable Harold Ford from Tennessee is

our first witness. We appreciate your coming to testify before the subcommittee. Come right on up, sir.

STATEMENT OF HON. HAROLD FORD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE

Mr. FORD. Thank you very much, Mr. Chairman and members of the subcommittee. I want to thank you for the opportunity to testify today on the bill H.R. 2042.

Mr. Chairman, I am testifying today in opposition to this legislation. H.R. 2042 would immediately cut the tariff on man-made fiber fish netting from the present ad valorem equivalent of 33.4 percent to 17 percent ad valorem. This legislation, Mr. Chairman, would overturn the previously negotiated reductions agreed to in the 1979 Tokyo round of the multilateral trade negotiations.

Mr. Chairman, under the agreement reached in Tokyo, the tariff on the imported netting is to be reduced to 17 percent by 1989. This gradual reduction, staged over 8 years, was designed to give the domestic netting industry time to adjust to the change in their competitive position. To immediately reduce the tariff to 17 percent will have a devastating effect on the domestic producers, Mr. Chairman.

Domestic producers depended upon the staged reduction in the tariff and are taking steps to improve their ability to enter the market successfully with new and improved products. As indicated to you in the testimony of the administration, an immediate reduction in the tariff will undermine the efforts of the domestic industry to effectively compete with foreign imports, imports that have already captured one-third of the domestic market.

Now, during the last 3 years, Mr. Chairman, Japan has supplied 50 percent of the imported fish netting. When U.S. firms are having a difficult time in gaining access to Japanese markets, a unilateral duty reduction on our part would be inappropriate.

Mr. Chairman, if we unilaterally reduce the tariff now, we will gain nothing in return and do great harm to the domestic industry that is working hard to compete with the other foreign markets. While I have never served on this Trade Subcommittee, Mr. Chairman, I have participated in a number of full committee sessions on bills addressing the problems of reducing tariffs on various products.

I have heard, as you have, opposition to tariff reduction bills on the grounds that it will cost American jobs. Many times opponents cannot even tell us where the domestic manufacturers of a particular product are located, much less the number of American workers manufacturing these products.

Mr. Chairman, I want to assure you and the members of this subcommittee that in the case of netting, the domestic jobs are quite real. The Nylon Net Co. in my hometown of Memphis, Tenn. is the largest domestic manufacturer in fish netting.

In 1980 the company employed some 650 workers. Today it employs 375. That drop in employment was a direct result of reduced demand for its fish netting products.

The reduced demand reflected in large part increases in purchases of foreign netting. In order to effectively compete with for-

eign imports, the company has recently purchased new equipment which will allow it to penetrate a variety of netting markets. Mr. Chairman, I would hope that this committee would consider those domestic jobs and retain the staged reduction in the tariff that was designed to give domestic firms the opportunity to develop a healthy and competitive domestic industry.

They are doing just that, and I would urge my colleages on this committee to take that into consideration when you mark up the legislation, H.R. 2042, and retain current law and allow this development to continue, Mr. Chairman.

That is the end of my testimony.

[The prepared statement follows:]

STATEMENT OF HON. HAROLD FORD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TENNESSEE

Mr. Chairman and members of the Subcommittee, I want to thank you for this opportunity to testify today on the bill H.R. 2042.

I am testifying today in opposition to this legislation. H.R. 2042 would immediately cut the tariff on man-made fiber fish netting from the present ad valorem equivalent of 33.4 percent to 17 percent ad valorem. This legislation would overturn the previously negotiated reductions agreed to in the 1979 Tokyo round of the multilateral Trade negotiations.

Under the agreement reached in Tokyo, the tariff on imported netting is to be reduced to 17 percent by 1989. This gradual reduction, staged over 8 years, was designed to give the domestic netting industry time to adjust to the change in their competitive position. To immediately reduce the tariff to 17 percent will have a devastating effect on domestic producers.

Domestic producers depended on the staged reduction in the tariff and are taking steps to improve their ability to enter the market successfully with new and improved products. As indicated to you in the testimony of the Administration, an immediate reduction in the tariff will undermine the efforts of the domestic industry to effectively compete with foreign imports; imports that have already captured one-third of the domestic market.

If there is to be any change in the negotiated reduction of the tariff, it should be made only after the most careful study, and certainly not in the context of an omnibus bill designed to make non-controversial adjustments in various tariffs. This is not a non-controversial bill. During the last three years, Japan has supplied 50 percent of the imported fish netting. When U.S. firms are having a difficult time in gaining access to Japanese markets, a unilateral duty reduction on our part would be inappropriate. In March of 1982, the International Trade Commission voted unanimously to continue an antidumping duty on Japanese netting. The negotiated reduction was designed to accomodate all parties, domestic producers, the domestic fishing industry, and our trading partners. If we unilaterally reduce the tariff now, we will gain nothing in return and do great harm to a domestic industry that is working hard to compete.

While I have never served on the Trade Subcommittee, I have participated in a number of full committee hearings on bills to reduce tariffs on various products. I have heard, as you have, opposition to tariff reduction bills on the grounds that it will cost American jobs. Many times opponents cannot even tell us where the domestic manufacturers of a particular product are located, much less the number of American workers manufacturing the product.

I want to assure members of the Subcommittee that in the case of netting, the domestic jobs are quite real. The Nylon Net Company of Memphis, Tennessee is the largest domestic manufacturer of fish netting. In 1980, this company employed 650 workers. Today, it employs around 375. That drop in employment was a direct result of reduced demand for its fish netting products. The reduced demand reflected, in large part, increases in the purchases of foreign netting. In order to effectively compete with foreign imports, the company has recently purchased new equipment which will allow it to penetrate a variety of netting markets. This market penetration will mean jobs in Memphis, Tennessee and in other areas of the country.

The staged reduction in the tariff was designed to give domestic firms the opportunity to develop a healthy and competitive domestic industry. They are doing just

that. I urge the Subcommittee to retain the current law and allow this development to continue. Thank you.

Chairman GIBBONS. Thank you.

Mr. FORD. I would like for my entire statement to be made a part of the record, Mr. Chairman.

Chairman GIBBONS. Yes, sir.

Are there questions of the members of the committee of our colleague.

Mr. FORD. Mr. Chairman, I would also like to say that the next witness before this subcommittee is Mr. Reginald Steele who is the executive vice president of the Nylon Net Co. in my hometown of Memphis, which is the largest netting manufacturer in the United States. I am not calling upon him at this time. I just wanted to give him that brief introduction.

I am delighted to have him here before this subcommittee. I am not a member of this committee, but I serve with members of this subcommittee on the full committee, and we are delighted to have him today before the committee.

Chairman GIBBONS. Mr. Steele, we are delighted to have you here.

Mr. FORD. I would be happy to take any questions, Mr. Chairman.

Chairman GIBBONS. Before we take any questions, let me say I have a letter from Congressman Bill Nichols who is also interested in this bill. I will ask that, without objection, we will put his letter in the record.

[See p. 852.]

Mr. FRENZEL. Is he opposed to the bill?

Chairman GIBBONS. Yes. He is opposed to the bill. He is from Blue Mountain.

Mr. HANCE. Mr. Chairman, I would like to associate myself with the views of the gentleman from Tennessee. I also oppose this bill. I think that if we go back on the 1979 agreement, then we are putting our domestic industry in a difficult position. In the 1979 agreement, even though they probably did not like that agreement, they agreed to make the adjustments in their industry that would need to be made by 1989.

I have one question for Mr. Ford. Has the administration as far as you know given their position on this bill?

Mr. FORD. I think the administration testified in the earlier session before this subcommittee and they indicated that they were opposed to the legislation. Yes, Mr. Hance.

Mr. HANCE. Thank you, Mr. Chairman.

Mr. FRENZEL. Mr. Chairman.

Chairman GIBBONS. Yes, Mr. Frenzel.

Mr. FRENZEL. With the administration opposed and these very qualified members of the comittee opposed, it is obvious that the bill does not face a very rosy future. Somewhere in our notes, however, it indicates that a compromise solution may be possible.

Does the gentleman from Tennessee know of any efforts to reach compromise?

Mr. FORD. Well, in the last Congress Mr. Hance and I worked on the House version of the bill we tried at that point to work out a compromise, but we had two bills, one in the House and one in the

Senate. I think the Senate dealt with the quota arrangement, and we tried to work out some agreement or compromise in the House last year.

I think this time the industry itself is working hard to address the problems within the legislation and to try to come to some early solution and if there is room for compromise, Mr. Frenzel, I certainly would be open to that. But I am not certain at this particular point whether there is room for compromise with the legislation considering that we are only talking about 1989.

This is only a few years from now and before I think, Mr. Hance, we had a 4-year compromise in our legislation before the Ways and Means Committee in the last Congress if I am correct. You can correct me if I am wrong.

Mr. HANCE. Mr. Chairman, I would just like to add one thing to that. As you well know, during the closing hours of this session we tried to work out a compromise on this issue. I am convinced that no two people within the industry or within the fishing industry agreed on anything.

We would hear one thing one minute, and we had a difficult time working anything out. After going through that in December, I am convinced that it would probably be difficult to reach a compromise. If the parties can get together, though, I would encourage them to do so.

But at this time, after what we went through last year, I certainly have my doubts.

Mr. FRENZEL. Thank you.

Chairman GIBBONS. Thank you very much.

Mr. FORD. Thank you, Mr. Chairman, and if the subcommittee would excuse me I would turn it over to Mr. Steele from my hometown.

Chairman GIBBONS. Yes, sir.

STATEMENT OF REGINALD N. STEELE, EXECUTIVE VICE PRESIDENT, NYLON NET CO., ON BEHALF OF THE AMERICAN NETTING MANUFACTURERS ORGANIZATION

Mr. STEELE. Good morning, Mr. Chairman and members of the subcommittee.

Chairman GIBBONS. Good morning, Mr. Steele. We are glad to have you here, and we will put your entire statement in the record. You may proceed as you wish.

[The prepared statement follows:]

STATEMENT OF REGINALD N. STEELE, EXECUTIVE VICE PRESIDENT, NYLON NET CO., ON BEHALF OF THE AMERICAN NETTING MANUFACTURERS ORGANIZATION

SUMMARY

The American Netting Manufacturers Organization is strongly opposed to H.R. 2042 which would immediately decrease the tariff on imported fish nets and netting to 17 percent ad valorem instead of following the staged reductions negotiated in the MTN.

The domestic fish netting industry is developing new technology and products like polyethylene trawl netting where domestic production caused the market price to drop 20% and monofilament netting for the Southern Mississippi fisheries.

An immediate reduction would dry up capital so investments in research and development, like monofilament, would be impossible.

This legislation is inconsistent with United States trade policy of negotiated reductions on a quid pro quo basis; no unilateral reductions which force domestic industries whose production is vital to national security out of business.

STATEMENT

The American Netting Manufacturers Organization, ANMO, is composed of 10 member companies which produce approximately 83 percent of all fish netting manufactured in the United States. ANMO members are located throughout the United States (See Appendix I).

H.R. 2042 would immediately reduce the tariff on man-made fiber fish nets and netting (virtually the only type of commercial fish netting used today) from the present ad valorem equivalent of 33.4 percent to 17 percent ad valorem. This would be an immediate 49 percent reduction. A 55 percent reduction in the tariff was negotiated in the recent "Tokyo Round" of Multilateral Trade Negotiations. This reduction, like virtually all negotiated tariff reductions, is staged over eight years; for fish nets and netting the staging started in January 1, 1982 and the final reduction to 17 percent ad valorem is scheduled to go into effect on January 1, 1989. Two of the staged reductions have already occurred.

Negotiated tariff reductions are staged over a number of years to allow United States industries affected by the loss of tariff protection an opportunity to adjust gradually to the increase in foreign competition. The United States fish netting industry has been particularly hard hit by import competition, and thus strongly opposed the early and immediate reduction called for in H.R. 2042.

Import penetration

The domestic industry picture is bleak. Appendix II shows imports by source for the past six years and Appendix III compares imports with domestic production and consumption. For 1982 (the latest year for which figures are available), import penetration reached 33⅓ percent, in only the second year of the staged reduction.

Japan, South Korea and China (Taiwan), three Far East countries, have consistently accounted for more than three-quarters of the imports in the years 1977–1982.

Unfair trade practices

Import competition has not always been fair. In 1972, ANMO successfully proved that Japanese netting was being dumped in this country. Lax enforcement of the order, until recently, left imports unaffected by dumping duties. The large majority of this netting is a type called salmon gill. There was an unsuccessful attempt by Japanese exporters and U.S. importers in 1982 to overturn this finding; the United States International Trade Commission determination not to modify or revoke the order was unanimous. An appeal of this decision by the importers is pending in the United States Court of International Trade. In 1983, there is a second review; a decision will be announced by the International Trade Commission on May 17.

Effort to compete with imports

The United States fish netting industry has made and is making strenuous efforts to meet increasing imports within the framework of the staged tariff reductions. I will cite two examples: (1) Polyethylene trawl netting and (2) monofilament netting.

Approximately five years ago the market started experimenting with polyethylene trawl netting. Initially, all of this netting was imported. Then several domestic companies began to import the twine to make the netting. These compaines found they could not import the yarn or twine at a price which would make their netting competitive, yet they were not in a position to make the twine without large capital expenditures. Domestic firms had to invest in extrusion equipment to extrude the yarn, braiders to braid the yarn into twine, and heat setter depth stretchers to process the netting after it came off the machines to make quality nets. Some domestic firms, including Nylon Net, made these capital investments and began production. Consequently, the price of polyethylene Trawl netting dropped sharply. Domestic competition for the imported netting dropped the market price 20 percent.

Another area domestic manufacturers are pursuing is the production of highly efficient monofilament netting for the lower Mississippi fisheries. It is anticipated that this will also require substantial capital investment. The result of an instant tariff cut would be the drying up of capital funds needed for product development. Domestic firms would not be able to complete development projects like monofilament netting.

CONCLUSION

The American Netting Manufacturers Organization strongly opposes the passage of H.R. 2042 which would immediately reduce the tariff on imported nets and netting to 17 percent ad valorem. The domestic manufacturers accepted the staged reductions negotiated in the MTN in good faith. They are trying to adjust through developing new materials and new techniques. Only if the staging is left intact will they be able to do this.

[Appendix I]

AMERICAN NETTING MANUFACTURERS ORGANIZATION MEMBERSHIP LIST

Bayside Net & Twine Co., Inc., Brownsville, Tex.
Blue Mountain Industries, Blue Mountain, Ala.
Brownell & Co., Inc., Moodus, Conn.
Carron Net Co., Inc., Two Rivers, Wis.
FNT Industries, Menominee, Mich.
Hagin Frith & Sons Co., Willow Grove, Pa.
Harbor Net & Twine Co., Inc., Hoquiam, Wash.
Mid Lakes Manufacturing Co., Knoxville, Tenn.
Nylon Net Co., Memphis, Tenn.
Northwest Net & Twines, Inc., Everson, Wash.

[Appendix II]

U.S. IMPORTS FOR CONSUMPTION OF FISH NETTING OF MANMADE FIBER, BY COUNTRY (1977–82)

[Quantity in pounds]

Country	1977	1978	1979	1980	1981	1982
Australia	0	0	0	0	0	0
Belgium	375	2,107	2,392	10,055	7,705	17,501
Canada	45,065	92,733	129,712	126,547	140,424	203,759
China (M)	0	0	0	0	13,673	3,203
China (T)	115,079	130,914	79,566	122,401	276,644	520,959
Denmark	7,896	20,709	21,857	28,749	23,821	28,166
Finland	0	0	22	381	0	0
Germany	0	0	2,740	13,040	0	0
Hong Kong	0	1,479	1,132	1,168	265	0
Iceland	0	772	2,776	752	824	18,107
Ireland	0	0	0	2,128	0	0
Italy	0	0	176	4	0	595
Japan	955,061	1,198,084	1,611,403	1,127,358	813,897	766,028
Korean Republic	235,431	202,627	179,127	297,842	98,458	257,478
Mexico	28,003	44,552	37,530	16,396	0	0
Netherlands	894	1,360	430	6,953	1,411	691
Norway	2,000	175	440	18,182	529	1,100
Panama	26,356	14,517	0	800	5,546	40,000
Peru	0	0	36,290	0	582	0
Philippine Republic	0	8,000	26,283	9,750	18,733	15,228
Portugal	20,524	52,801	96,976	99,885	27,067	32,177
Romania	0	0	0	0	0	0
Spain	0	0	7,330	36,009	30,260	3,434
Sri Lanka	1,119	0	0	0	0	0
Sweden	0	882	40	0	669	0
Thailand	1,857	12,283	25,684	22,232	1,461	1,638
Trinidad	0	0	0	0	0	0
United Kingdom	13,526	37,989	48,179	106,104	39,135	25,112
Total	1,453,186	1,821,984	[1] 2,315,127	2,046,737	1,501,104	[2] 1,935,386

[1] Includes 4,452 pounds imported from France and 590 pounds imported from Indonesia.
[2] Includes 210 pounds imported from France.

Source: Compiled from official statistics of the U.S. Department of Commerce.

[Appendix III]

FISH NETTING AND FISH NETS OF MAN-MADE FIBER (1977–82)

[In thousands of pounds]

Year	U.S. shipments	Imports for consumption	U.S.[1] exports	Apparent consumption	Ratio imports to apparent consumption (percent)
1977	4,393	1,453	(2)	5,846	24.9
1978	4,950	1,822	227	6,545	27.8
1979	5,567	2,315	199	7,683	30.1
1980	4,419	2,047	271	6,195	33.0
1981	4,365	1,501	359	5,507	27.3
1982	4,258	1,935	403	5,790	33.3

[1] Export Classification includes fish netting and fish nets of textile materials.
[2] Not separately reported.

Source: U.S. shipments are estimated total shipments based on compiled data furnished by ANMO members, imports and exports compiled from official statistics of U.S. Department of Commerce.

Mr. STEELE. Thank you.

The American Netting Manufacturers Association is strongly opposed to H.R. 2042 which would immediate reduce the tariff on imported fish nets to 17 percent ad valorem instead of following the staged reduction negotiated in the MTN. The domestic fish netting industry is developing new technology and products like monofilament netting for the southern Mississippi fisheries and polyethylene trawl netting, where the American production caused the market sales price to drop 20 percent.

This legislation is inconsistent with the U.S. trade policy and negotiations. Negotiated reductions on a quid pro quo basis no unilateral reductions which force domestic industries whose production is vital to the national security out of business.

We are capable of making an effective netting for any U.S. fishery on an economically competitive basis. Let me thank you, Mr. Chairman, for this opportunity.

Chairman GIBBONS. Thank you. Are there questions of Mr. Steele. Mr. Hance.

Mr. HANCE. In the 1979 agreement, Mr. Steele, the industry in effect was given 10 years to make adjustments. I would like to know what type of adjustments the domestic industry has made up to this time?

Mr. STEELE. We have purchased more modern equipment to try to cut our cost. We have entered into new markets for different types of fish netting such as this polyethylene netting which was purchased totally from outside the country for a good number of years, and we have tried to further our downstream operations to produce the raw materials that ultimately go into making fish netting.

Mr. HANCE. I would like to ask one other question that really has to do with what has happened in Canada. I am familiar with that, but I wish you would touch on that if you would.

Mr. STEELE. In Canada at one time, there was a domestic fish net manufacturing industry or a series of companies that made fish netting. The government there reduced the duty I understand down to zero on imports, and consequently drove the industry out of business.

In the light of what was going on in Canada at the time, they felt it was going to help the fishermen by reducing the duty. Today they do not see that it helped them at all because the price of fish netting in Canada is the same price as fish netting in the United States.

Mr. HANCE. So virtually what happened was that once they got the domestic industry out of the business in Canada, then they raised their price again.

Mr. STEELE. Supply and demand took over and they raised the prices.

Mr. HANCE. Do you have any figures on the cost of the fish netting in relation to the overall cost of the fishing industry?

Mr. STEELE. The overall cost of fish netting as it relates to the gear on a vessel, taking into consideration the vessel and fuel, crew, and salaries is a very small portion, less than possible 10 percent of the total cost.

Mr. HANCE. Thank you very much. I have no other questions, Mr. Chairman.

Chairman GIBBONS. Thank you. Are there any other question?

Mr. FRENZEL. Mr. Chairman.

Chairman GIBBONS. Mr. Frenzel.

Mr. FRENZEL. Our notes here indicate that there are about 2,000 people employed in the domestic industry. Is that figure correct?

Mr. STEELE. Presently it is somewhere in that area, yes, sir. It possibly would be less due to the economic slump in the industry presently.

Mr. FRENZEL. How many were there 3 years ago, or how many were there in 1979?

Mr. STEELE. I really could not say.

Mr. HANCE. Would the gentleman yield?

Mr. FRENZEL. I would yield to the gentleman.

Mr. HANCE. About your own business, how many employees did you have in 1979?

Mr. STEELE. We had 650, and today we have, as Mr. Ford said 375.

Mr. HANCE. You have gone from 650 to 375?

Mr. STEELE. Yes, sir.

Mr. HANCE. Would you say that is comparable with other manufacturers?

Mr. STEELE. No, sir, I would not.

Mr. HANCE. That you all have dropped more?

Mr. STEELE. Yes. The imports of fish netting coming into this country have definitely affected our employment and our equipment also. We are running at about 50 to 60 percent capacity.

Mr. HANCE. But what about your U.S. competitors? Have they had comparable drops in employment?

Mr. STEELE. Yes, sir. I would say they have.

Mr. HANCE. Thank you.

Chairman GIBBONS. What is the problem in that American netting manufacturers cannot compete? This net is primarily made from an oil-based product and the biggest competitor is Japan, who has to import all of their oil.

Mr. STEELE. Part of the problem, Mr. Chairman, in the past has been the equipment. We have to solely rely on the Far East for the equipment to make fish netting.

Chairman GIBBONS. We do not have the manufacturing capacity to make the netting equipment? Is that it or is it a patent problem?

Mr. STEELE. No, sir. It is just that nobody in this country, because of the small market I presume, is really truly interested in getting into making fish net machines as such. That has been part of the problem.

Also, part of the problem in the past, Mr. Chairman, has been the availabilty of the yarn to make the netting itself.

Chairman GIBBONS. Where do you buy the yarn from?

Mr. STEELE. From companies like Monsanto, Du Pont, Allied, Firestone. Firestone, being one of the companies that just recently discontinued making nylon.

Chairman GIBBONS. I have seen nets made, and they are largely a machine-made product with the exception being during some of the final stages. It looks to me like it is essentially a raw material type of operation. I just wondered why we have such a terrible time competing. We have a pretty high tariff. What is the problem?

Mr. STEELE. Well, again, Mr. Chairman, part of the problem is the labor cost itself. When you are competing with the Far East at the type of wages that they are paying people there it becomes very difficult. Your statement that netting is basically a machine-made product, that is very true, Mr. Chairman, but you have to really appreciate the way the machine runs.

It is not just running off the back of the machine as such. You can make 1,000 knots and that would only be a half a pound of material, so on a per-hour basis, that being a man-hour basis, is quite expensive laborwise. The additional processing after the netting comes off the machine is quite expensive as far as labor is concerned also.

Labor becomes a big portion of the total overall cost in making netting.

Chairman GIBBONS. All right. Thank you very much.

Mr. HANCE. Mr. Chairman, I have one more question. You were talking about the nylon used to manufacture netting. As most of your tire manufacturing has gone away from nylon, I would guess that the raw product that you use is not as available. I guess you all would have a very low volume compared to what the tire manufacturers had used in the past. So has that increased your cost any?

Mr. STEELE. The cost of nylon has gone up over the past several years and continues to rise. The availability of nylon today is becoming harder to find because of plants closing like Firestone, the reduction in the amount of tires that use nylon, tires specifically in the truck area, the availability of nylon seems to be drying up.

Needless to say, no new companies are putting in additional production equipment to make nylon as such. The move today is toward polyester.

Mr. HANCE. Thank you.

Chairman GIBBONS. All right. Next we have the National Fisheries Institute.

Mr. WILLIAMS. Mr. Chairman, J. D. Williams, counsel for ANMO. I believe that Mr. Nichols' constituent, Mr. Whitlow, was next because he shares the position of Congressman Ford in this matter.

Chairman GIBBONS. We will certainly take him. Go ahead. Yes, I am sorry, I see it here on the agenda.

STATEMENT OF H. DONALD WHITLOW, CHAIRMAN, AMERICAN NETTING MANUFACTURERS ORGANIZATION, VICE PRESIDENT, BLUE MOUNTAIN INDUSTRIES, ACCOMPANIED BY J. D. WILLIAMS, COUNSEL, AMERICAN NETTING MANUFACTURERS ORGANIZATION

Mr. WILLIAMS. Thank you, Mr. Chairman. Might I also interpolate a response to the question of the Chair with regard to the ability of the domestic industry to compete. Two matters should be placed on the record.

No. 1, one of the reasons why there has been some delay in the ability to compete has been the fact that although this industry received a dumping order and a ruling against the Japanese back in 1972, the record shows that it was not effectively enforced until about 1980. The industry lost much time in its ability to get back into the business. That is No. 1.

No. 2, the Chair has referred to the production of nylon and Congressman Hance has also. There has been a difficulty in acquiring the necessary yarn or raw material; but, the record at the International Trade Commission last week, where this industry was fending off an attempt to modify the dumping order shows that the industry has made significant progress with regard to finding domestic yarn manufacturers. One of them, situated in Virginia, testified to the fact that they have now made progress in that regard.

If the Chair would hear Mr. Whitlow.

Chairman GIBBONS. I am sorry I overlooked you here. Just go right ahead, Mr. Whitlow.

Mr. WHITLOW. Mr. Chairman and members of the committee, I am pleased to have the opportunity to be here today. The American Netting Manufacturing Organization is strongly opposed to H.R. 2042 which would immediately decrease the tariff on imported fish nets and netting to 17 percent ad valorem instead of following the staged reductions negotiated in the Tokyo round.

The domestic industry feels it has a fighting chance of survival through new product development against imports from Japan, Korea, and Taiwan only if the staged reductions are followed and the tariff is not lowered to 17 percent ad valorem until 1989. Lowering the duty on nets and netting will not solve the problems of the fisherman.

Competitive production by domestic industry has been shown to be the way to lower prices to the fisherman. The unilateral tariff reduction contemplated by H.R. 2042 would be a gift to the Japanese and other foreign manufacturers without any compensation that would provide similar increased access to foreign markets for U.S. goods.

Thank your, Mr. Chairman.

[The prepared statement follows:]

STATEMENT OF H. DONALD WHITLOW, VICE PRESIDENT, BLUE MOUNTAIN INDUSTRIES, ON BEHALF OF THE AMERICAN NETTING MANUFACTURERS ORGANIZATION

SUMMARY

The American Netting Manufacturers Organization is strongly opposed to H.R. 2042 which would immediately decrease the tariff on imported fish nets and netting to 17 percent ad valorem instead of following the staged reductions negotiated in the "Tokyo Round".

The domestic industry feels it has a fighting chance of survival, through new product development, against imports from Japan, Korea and Taiwan only if the staged reductions are followed and the tariff is not lowered to 17 percent ad valorem until 1989.

Lowering the duty on nets and netting will not solve the problems of the fishermen; competitive production by domestic industry has been shown to be the way to lower prices to the fishermen.

The unilateral tariff reduction contemplated by H.R. 2042 would be a gift to the Japanese and other foreign manufacturers without any compensation that would provide similar increased access to foreign markets for U.S. goods.

STATEMENT

I am here both as Vice-President of Blue Mountain Industries and as Chairman of the American Netting Manufacturers Organization (ANMO). The ten member companies of ANMO account for about 83 percent of the fish netting production in the United States. ANMO members are located throughout the United States. I agree with the testimony of Mr. Steele of Nylon Net who preceded me here today, and would like to add to his testimony in some areas.

I have been in the fish netting business for almost twenty years. Like many other manufacturers, the fish netting industry has faced a very bad economic situation over the last couple of years and is fighting a continuing battle for survival—first against Japanese imports and then against imports from Korea and Taiwan. We obtained an antidumping order in 1972 which was laxly enforced until Congress tightened up the law. The feeling now is that the industry has a fighting chance of survival, but will not survive if H.R. 2042 is enacted.

This Committee and Congress in 1974 set up specific staging procedures to allow American industry to adjust to the decreases set in the tariff negotiations pursuant to the authorization of the Trade Act of 1974. We felt we could live with them even after the duty was cut on a staged basis by more than fifty percent, to a rate of 17 percent ad valorem effective in 1989. We are moving in that direction now, but there is not way we could adjust to an immediate reduction to 17 percent.

We understand the American fishermen have problems, but we are not the cause. We do not believe our industry should be sacrificed merely to permit some type of short term gain for U.S. fishermen when actually their problems are much deeper and broader than this narrow area. This area, minor for them, is critical for us—the survival of our industry.

Unilateral reduction of import tariffs—particularly on textile goods—is contrary to U.S. trade policy, which is to provide tariff reductions through international negotiation and not to make them on a unilateral, non-negotiated basis. H.R. 2042 contemplates a gift to Japanese and other foreign manufacturers without any compensation that would provide similar increased access to foreign markets for U.S. goods.

Chairman GIBBONS. Thank you. Are there any questions?

[No response.]

Chairman GIBBONS. Thank you very much.

All right. Next we have the National Fisheries Institute, with Mr. Gutting, and the New Bedford Seafood Council, with Mr. Fritts.

Mr. FRITTS. Mr. Gutting was called to testify before another committee, and he asked me to request that the committee accept his statement for the record. He will make an attempt to appear.

STATEMENT OF CHARLES H. FRITTS, LEGISLATIVE REPRESENTATIVE, NEW BEDFORD SEAFOOD COUNCIL

Mr. FRITTS. Mr. Chairman, my name is Charles Fritts. I am the legislative representative for the New Bedford Seafood Council.

The New Bedford Seafood Council represents over 150 vessels and 1,500 crewman who fish out of the port of New Bedford, Mass. In terms of the value of landings, New Bedford is the largest commercial fishing port on the east coast.

We appear before your committee today in support of H.R. 2042 to reduce the tariffs on imported fish nets made of synthetic material. By way of background, in 1983 the tariff on the imported fish nets is currently 18 cents per pound plus 28.8 percent ad valorem.

The effective rate of his compound tariff is approximately 34 percent. Prior to 1982 the tariff was 25 cents a pound plus 32.5 percent ad valorem, an effective rate of approximately 44 percent.

The U.S. fishermen have suffered under this tariff structure for over 20 years. Legislation to reduce this tariff has been introduced several times in the past dating back to 1970.

As noted by the previous witnesses, the tariff is scheduled to be gradually reduced to 17 percent ad valorem in 1989. H.R. 2042 would reduce the import tariff to 17 percent immediately.

A reduction of this tariff would have a beneficial impact on the entire domestic fishing industry. This legislation would promote the growth of the domestic U.S. industry, and it would also increase the U.S. competitive posture in relation to foreign fishermen.

The intent of the Magnuson Fisheries Conservation and Management Act and the American Fisheries Promotion Act is to promote the domestic fishing industry by making greater utilization of America's fisheries resources. H.R. 2042 is in line with that purpose in that it will reduce some of the costs that our fishermen must bear.

Today the United States suffers a $3 billion annual trade deficit in fish products. That is, $3 billion more of fish products enter the United States than are exported out of the United States.

The United States is a major consumer of seafood. Our fishermen must compete with subsidized foreign fleets that undercut our prices and retard the growth of our domestic industry. This legislation would reduce one of the many competitive disadvantages that the U.S. fisherman is up against.

By allowing U.S. fishermen to be more competitive, we will be able to reduce the trade deficit in fisheries products. To give the committee an idea of the cost impact of that present tariff, a New Bedford fisherman will employ 8 to 12 crewmen. Throughout the year he will spend approximately $15,000 a year on fish nets.

Should he buy foreign made fish nets, approximately $5,000 of that $15,000 will be spent to pay the import tariff. The expense for nets is even greater in certain other fisheries such as the Alaska ground fisherman and the tuna purse seiners where a cost of a net may exceed $100,000.

The fish harvesting industry consists primarily of single vessel owners. Large corporations do not own or operate fishing vessels. Therefore, the savings in this reduction in tariff if it amounts to a

few thousand dollars to that fisherman will have a significant impact on that individual fisherman and, therefore, on the fishing industry as a whole.

The crux of our case in support of this legislation is that the current tariff of 34 percent is unjustifiable. From a public policy point of view, an import tariff of 34 percent to any industry is very hard to explain.

It is an enormous trade barrier. It increases the cost of the fish nets and netting to the U.S. fisherman. It also provides a disincentive to the domestic industry to compete with a foreign product.

Keep in mind that this legislation maintains a 17 percent tariff level for the domestic industry which is a significant barrier or protective device that few other domestic industries enjoy. Mr. Chairman, that tariff is unduly protective. It exceeds one-third of the cost of the product.

What aggravates this unfair trade barrier to the U.S. fishermen even further is that the U.S. trade policy toward the fishing industry is not consistent. On the one hand, fish products that are imported into the United States arrive duty free or at very low duties. These are the imports that the fishermen must compete with.

While the imports of fish enter this country duty free, the equipment the fishermen need to catch the fish bears a very high tariff. I would also like the committee to note that there is a 50-percent tariff on vessel's equipment or repairs for vessels purchased overseas. We have a contradiction in policy here where we have no tariff protection for the product we compete with and a high tariff for the equipment that we need to catch the fish.

We seek some consistency in the tariff policy toward the fishing industry. We are being treated unfairly at both ends of the spectrum. H.R. 2042 would correct that situation, or at least make it a bit more equitable.

The fishing industry requires a wide variety of nets and netting. As a general rule, fishermen have found that the foreign-made product is superior in quality to the domestic product. It lasts longer. It maintains its qualities longer. A fisherman simply cannot allow himself to use a net that lets the fish escape.

There are also several types of nets that are not manufactured in the United States or are not readily available to the fishermen. In some cases, we have been forced to pay to import tariff on nets not made in the United States. This is clearly not the intent of any protective tariff laws.

In costing out the revenue loss of this tariff reduction, it has been estimated by the International Trade Commission that the loss would amount to $4.3 million if the legislation had taken effect in January of this year, 1983. This is a very small amount to the U.S. Treasury, whereas to the individual fisherman, a few thousand dollars is a very large amount.

The vessel is the extent of the fisherman's production capabilities. A 34-percent tariff works a very unfair burden on the independent fisherman.

In conclusion, Mr. Chairman, H.R. 2042 would save the fishermen thousands of dollars per year and establish a more consistent trade policy with regard to the fishing industry and reduce an unjustifiable and burdensome tariff barrier, and it would provide 17-

percent tariff protection to the domestic industry. I ask this committee for its support for H.R. 2042.

I thank you for the opportunity to present my organization's views, and I would be glad to answer any questions that the committee may have.

[The prepared statement follows:]

STATEMENT OF CHARLES H. FRITTS, LEGISLATIVE REPRESENTATIVE, NEW BEDFORD SEAFOOD COUNCIL

Mr. Chairman, my name is Charles Fritts. I am the Legislative Representative of the New Bedford Seafood Council.

The New Bedford Seafood Council represents over 150 vessels and 1,600 crewmen who fish out of the port of New Bedford, Massachusetts. In terms of the value of landings, New Bedford is the largest commercial fishing port on the East Coast. We appear before your Committee today in support of H.R. 2042, to reduce the tariff on imported fish nets of synthetic material.

BACKGROUND

In 1983 the tariff on imported fish nets is eighteen cents (18¢) per pound plus 28.8 percent ad valorem. The effective rate of this compound tariff is approximately 34 percent. Prior to 1982, the tariff was twenty-five cents per pound plus 32.5 percent ad valorem, an effective rate of approximately 44 percent.

The U.S. fishermen have suffered under this tariff structure for over twenty years. Legislation to reduce this tariff has been introduced several times in the past dating back to 1970.

The tariff is scheduled to be reduced gradually to 17 percent ad valorem in 1989. H.R. 2042 would reduce the import tariff to 17 percent immediately.

The reduction of the tariff would have a beneficial impact on the entire domestic fishing industry.

Promote growth of U.S. fishing industry

The intent of the Magnuson Fisheries Conservation and Management Act and the American Fisheries Promotion Act is to promote the growth of the domestic fishing industry. H.R. 2042 is in line with that purpose in that it will reduce some of the costs fishermen must bear.

The U.S. suffers a $3 billion trade deficit in fish products. That is, $3 billion more of fish products enter the United States than are exported out of the United States. The United States is a major consumer of seafood. Our fishermen must compete with subsidized foreign fleets that undercut our prices and retard the growth of the domestic fishing industry. This legislation would reduce one of the many competitive disadvantages the U.S. fisherman is up against. By allowing the U.S. fishermen to be more competitive, we will be able to reduce the trade deficit in fisheries products.

Cost impact on U.S. fishermen

A fisherman in New Bedford will employ approximately eight to twelve crewmen. Throughout the year he will spend approximately $15,000 per year on fish nets. Should he buy foreign made fish nets, approximately $5,000 of that $15,000 will be spent to pay the import tariff.

The expense for nets and netting is even greater for certain other fisheries such as the Alaska ground fishermen and the tuna purse seiners.

The fish harvesting industry consists primarily of single vessel owners. Large corporations do not own or operate fishing vessels. Therefore the savings of the reduction in net tariff will have a signficant impact on the fishing industry.

Current tariff of 34 percent is unjustifiable

From a public policy point of view, an import tariff of 34 percent is unjustifiable. It is an enormous trade barrier. It increases the cost of fish nets and netting to the U.S. fishermen. It also provides a disincentive to the domestic industry to compete with the foreign product.

Even the 17 percent tariff level which this legislation calls for is a significant protective barrier which few domestic industries enjoy.

U.S. trade policy toward fishing industry is not consistent

The U.S. trade policy toward the fishing industry is not consistent. On one hand fish products are imported into the United States duty free or at very low duties. These imports are the products the U.S. fishermen must compete with.

While the imports of fish products enter this country duty free, the equipment the fishermen need to catch the fish bears a very high tariff. This is a contradiction in policy.

We seek some consistency in the tariff policy of this government towards the fishing industry. We are being unfairly treated at both ends of the spectrum in that the imports we compete with have very low tariffs and the equipment we need to harvest fish have very high tariffs. H.R. 2042 would make the current situation more equitable. It would also be consistent with the Administration's free trade policy.

Quality and availability of nets

The fishing industry requires a wide variety of nets and netting. As a general rule, fishermen have found that the foreign made product is superior in quality to the domestic product. It lasts longer and maintains its quality longer. A fisherman cannot afford to use a net that allows fish to escape. There are also several types of nets that are not manufactured in the United States, or if they are manufactured in the United States they are not readily available.

In some cases we are forced to pay a tariff on nets that are not made in the United States. This is clearly not the intent of any protective tariff.

Small revenue loss to U.S. Treasury

In costing out the revenue loss of this tariff reduction, it has been determined by the International Trade Commission that the loss would only be a total of $4.3 million if this bill had taken effect in January, 1983. This is a very small amount to the U.S. Treasury, whereas to the individual fisherman this is a very large amount of money. Most fishermen are small businessmen. Their vessel is the extent of their production capabilities. A 34 percent tariff works a very unfair burden on the independent fisherman.

In conclusion, the enactment of H.R. 2042 would:

(1) Save fishermen thousands of dollars per year;

(2) Establish a more consistent trade policy with regard to the fishing industry;

(3) Reduce an unjustifiable and burdensome tariff barrier; and

(4) Provide tariff protection of 17 percent to the domestic net industry.

I ask the Committee to support H.R. 2042.

Thank you for the opportunity to present our views on this matter.

Mr. GIBBONS. One of the last witnesses said this was a foreigner versus an American type of operation. I assume most of the people in the fishing industry are all Americans, are they not?

Mr. FRITTS. Yes, sir.

Mr. GIBBONS. So, it is really one set of Americans versus another concerning this matter?

Mr. FRITTS. Yes.

Mr. GIBBONS. You are having to compete in the fishing market and in the food market. How many commercial fishermen are there? I know you do not represent all of them, but you represent 1,500.

Mr. FRITTS. The estimates are that there are around 180,000 commercial fishermen in the industry.

Mr. GIBBONS. We are asking all of them to carry a burden so that 2,000 netmakers can loll around behind a 34-percent tariff barrier.

Mr. FRITTS. That is an opinion of the present situation, sir.

Mr. GIBBONS. I think it is a shame, myself. I do not know why the net manufacturers cannot get off of their rear ends and get competitive. We have nylon made here and we can buy the machines someplace. Yet, we insist that the fishermen, 180,000 fishermen, eke out a living in a very dangerous profession so that 2,000 other people can get along pretty nicely. I do not see the justice in

it. It is not foreigners versus Americans. It is 180,000 Americans versus 2,000 Americans, the way I see it.

Mr. FRITTS. Yes, sir. You cannot catch fish without the nets. The estimates are there are 180,000 fishermen. Those that are purchasing foreign made nets are paying the freight.

Mr. GIBBONS. There is a 50-percent tariff on the repair of your boats?

Mr. FRITTS. Any vessel repairs or equipment for a vessel purchased overseas has a 50-percent tariff. That is 19 United States Code 1466.

Mr. GIBBONS. How did you fishermen ever let us do that to you?

Mr. FRITTS. I do not have an answer for that question, sir.

Mr. GIBBONS. It looks like we hated fishermen in this Congress at one time.

Mr. FRITTS. The independent fisherman is a very difficult creature to organize and therefore create an organization to present his views to Congress in an organized manner. They are probably worse than independent truckers.

Mr. GIBBONS. I am sorry you got into that. [General laughter.]

Mr. FRITTS. Only in terms of organizing.

Mr. GIBBONS. I am teasing about that.

Mr. Hance, you take up for those 2,000.

Mr. HANCE. OK. In the 1979 agreement, the Tokyo round negotiations, did you endorse the netting provision? Did you fight it?

Mr. FRITTS. Sir, I was not in the employ of any of the fishing industry organizations at that time. I do not believe the fishing industry had any input into what went on there, but I was not aware of it at the time and was not involved at all.

Mr. HANCE. What about the possibility that one of the last witnesses brought up about what has happened in Canada? That once you drop the tariff, the foreign manufacturers run the domestic people out of business and then raise their prices back up.

Mr. FRITTS. I do not have the specific information as to what went on in Canada. I think the committee should note that assuming facts that we have been told that they did reduce the tariff to zero, where we are leaving this committee or this industry with 17-percent tariff protection, which I think most industries that appear before this committee would be glad to have.

Mr. HANCE. Last year when there was supposedly a compromise, at what point did you or could you agree of some type of compromise?

Mr. FRITTS. Last year in the Senate, the fishing industry struck an agreement with the net manufacturers that called for a tariff rate quota. We made that agreement directly with them, basically managed by Senator Mitchell's office and the Senate Finance Committee. It said that the first 1.75 million pounds of nets that come into the United States would come in at 17 percent. That is approximately an average of what the imports have been over the last 5 years. Anything in excess of that would come in at the current rate through 1989. So it protected the domestic market to the extent that the foreign or the imports and anything in excess was protected.

Mr. HANCE. What percentage of your cost of fishing goes to nets?

Mr. FRITTS. As I indicated, we spend $10,000 to $15,000 per year on nets. I do not know an exact percentage. I would imagine it is not the major cost. As you know, fuel has increased from 50 cents a gallon to over $1 a gallon, and that is far and away his greatest cost. I do not have a percentage to tell you what this cost would be. But again, many fishermen, they own that vessel and that is all they own. So if he can save a few thousand dollars a year, that is significant to him. There is no parent corporation involved. It is the fisherman and his boat and that is it.

Mr. HANCE. Thank you, Mr. Chairman.

Mr. GIBBONS. Mr. Frenzel.

Mr. FRENZEL. Your thesis is that 34 percent is more protection than the domestic industry should have?

Mr. FRITTS. Exactly.

Mr. FRENZEL. It does seem like it is a high number.

Mr. FRITTS. It is a very high number, sir. I think 17 percent is a high number.

Mr. FRENZEL. Where does most of the net come from?

Mr. FRITTS. Most of the net, imported net, comes from Japan. I believe Korea and Taiwan also produce. In New Bedford we have been using a net from Portugal. We have been importing a large percentage of our nets from Portugal.

Mr. FRENZEL. Have you had instances in the past where you have not been able to buy certain types or styles from domestic producers?

Mr. FRITTS. Last year and previous to last year we were unable to get polyethylene netting in the United States, and we were paying the tariff on it. I also believe that monofilament salmon gill netting is not available in the United States.

Mr. FRENZEL. Is the first item you mentioned a popular item for fishermen?

Mr. FRITTS. It has become so because the polyethylene will float, and where it will float above the ground as you drag the net along the bottom, it will not snag then on whatever is on the bottom. It also is a little bit lighter, and it is sealed so sand will not get between the twisted or braided weavings, and when sand gets in there, as you may know or may not know, in New England we have a net size, a mesh size minimum. The intent is to allow certain fish smaller to get away. If sand gets into that net, it is conceivable that it would thicken the net and therefore make that net too small, the mesh size.

So we have turned to the polyethylene net that is sealed so the sand will not have the effect on it.

Mr. FRENZEL. And that is now available from domestic producers.

Mr. FRITTS. To the best of my knowledge, there is some—I believe there is some production, a low level of production in the United States, and some of the domestic manufacturers are buying the twine overseas and weaving the net here. They are not making the twine.

Mr. FRENZEL. What kind of duty do they pay on the twine?

Mr. FRITTS. I think it is 15 percent.

Mr. FRENZEL. That is a lot better deal, is it not?

Mr. FRITTS. A little bit better deal. Yes, they are paying 15, and then enjoy 34 percent protection.

Mr. FRENZEL. Thank you very much, Mr. Chairman.

Mr. HANCE. I have one more question, Mr. Chairman.

Mr. GIBBONS. Mr. Hance.

Mr. HANCE. You mentioned that the number of fishermen is approximately a hundred-and-what thousand?

Mr. FRITTS. 180,000.

Mr. HANCE. How many fishermen did you have, say, 10 years ago?

Mr. FRITTS. I really do not know that number. I will make an attempt to supply that for the record.

Mr. HANCE. I would like to know 5 and 10 years ago.

[The information referred to follows:]

Year	Number of commercial fishermen	Number of commercial fishing vessels and boats
1966	135,636	82,122
1971	140,392	87,081
1976	173,610	102,821
1979 (estimated)	187,795	111,038
1982 (estimated)	203,148	118,866

Mr. HANCE. Thank you, Mr. Chairman.

Mr. GIBBONS. I hope the industry can get together. That is an exorbitantly high burden to impose upon 180,000 working Americans, a lot of whom are in my district, and that does make a difference.

Thank you very much.

Mr. FRITTS. Thank you, Mr. Chairman.

Mr. Chairman, Mr. Gutting has arrived.

Mr. GIBBONS. Come on up, Mr. Gutting.

STATEMENT OF RICHARD E. GUTTING, JR., VICE PRESIDENT, GOVERNMENT RELATIONS, NATIONAL FISHERIES INSTITUTE

Mr. GUTTING. Mr. Chairman, I am Dick Gutting from the National Fisheries Institute. We have over 1,200 companies throughout the United States which harvest, process, and market fish. Most of our members, however, are processors and distributors.

We are vitally interested in the health of the harvesting sector because we depend upon them for our supply.

Much of what I would have said has been said by Mr. Fritts. I would like to add a few things.

First, we have got a tremendous——

Mr. GIBBONS. We will put your entire statement in the record. Go ahead.

[The prepared statement follows:]

STATEMENT OF RICHARD E. GUTTING, JR., VICE PRESIDENT-GOVERNMENT RELATIONS, NATIONAL FISHERIES INSTITUTE

Mr. Chairman, I am Richard E. Gutting, Jr., Vice President, Government Relations, of the National Fisheries Institute. The Institute is a national association representing more than 1,200 member companies which harvest, process and market fish and seafood products. I am pleased to have the opportunity to appear today and testify in support of H.R. 2042, which would reduce customs duty on synthetic fiber-fish nets and netting to a rate of 17 percent ad valorem. This proposed reduction would bring into effect immediately the phased-in reduction agreed to by the United

States in 1979 during the Multilateral Trade Negotiations (MTN). At the present time, the effective duty rate is 34 percent. It is scheduled to be reduced to 17 percent by 1989 in the MTN agreement.

H.R. 2042 is responsive to the current economic situation in the United States fishing industry and to ongoing efforts by the government to accelerate development of the industry. Our fishing industry uses approximately $20–25 million worth of fish nets and netting annually. Usage of fish nets increased from 3.2 million pounds in 1970 to 6.3 million pounds in 1980.

Approximately one-third of all fish nets used by the U.S. industry are imported. Even with the current high rate of duty, U.S. consumption of imported nets and nettings increased through the 1970's, but declined in 1980 and 1981 to a level of 1,662,000 pounds. This decline is due, we believe, to the current economic difficulties confronting the seafood industry.

The high level of imports is due in part to the quality of the monofilament webbing which is lighter and ensures exact mesh size. Another important reason for the level of imports is the limited synthetic net and netting production in the United States. Thus, the current high tariff is not providing protection for the U.S. net and netting industry since the industry does not produce a comparable product.

At the same time, this tariff imposes a significant financial burden on the United States fishing industry. Initial costs for a fishing vessel entering the Alaskan groundfish fishery, for example, is approximatelyu $100,000. The passage of this legislation would reduce the tariff from $34,000 to $17,000. The resulting savings per vessel is significant.

The domestic net and netting industry, which produces two-thirds of the domestic fish netting requirements, will still be protected if H.R. 2042 is adopted. The 17 percent tariff is still quite high, the domestic net and netting industry is covered by the Multifibers Agreement and is afforded protection under statutes which regulate types of trade practices. In addition, the fishery laws of most coastal states do not permit the use of monofilament nets in state waters.

A reduction in the tariff is consistent with Congressioinal intent expressed in the American Fisheries Promotion Act and in recent amendments to the Magnuson Fishery Conservation and Management Act to provide for the development of fisheries which are currently underutilized by the United States industry, including bottomfish off Alaska.

The proposed legislation also is consistent with this nation's overall trade policy. In the seafood industry, we have been working aggressively with the Departments of State and Commerce to reduce or eliminate existing tariff and non-tariff trade barriers to U.S. fishery products. The government of Japan has announced a reduction in trade barriers on varioius fishery items. Adoption of this legislation would signal to the Japanese that there are benefits to be derived from free international trade.

In summary, Mr. Chairman, enactment of H.R. 2042 would: (1) result in an immediate cost savings for fishing vessels; (2) implement a duty reduction already agreed to in the 1979 Multilateral Trade Negotiations; (3) support U.S. initiatives to reduce foreign tariff and non-tariff trade barriers on U.S. fishery products; (4) maintain adequate protection for the domestic net and netting industry; and (5) recognize that the U.S. net industry is not producing all the monofilament nets and netting utilized in our salmon, shrimp and bottom fisheries.

I urge your committee to support this legislation and thank you once again for the opportunity to testify.

Mr. GUTTING. We have a tremendous potential in the fishing industry to grow, increase jobs and increase our contribution to GNP. We could more than double our harvest with the resources we have off our coasts, and we are very close to opening up these fisheries and marketing that fish. Every dollar counts in our costs if we are going to be competitive.

In the Alaska area in particular, there is a tremendous ground fish fishery. Our vessels are getting very close to being able to open up that market. For these vessels a net costs over $100,000. The present tariff on these nets can make a difference. What we would like to do is to keep these costs down, open up the markets and develop the fisheries. We think this particular cost is significant in the long term. It has been very significant in the last year. The

vessels that we need to open up that fishery are crab vessels which have the capacity of either fishing for crab or fishing for the ground fish. These vessels have witnessed a collapse of the crab resource. They have had a very tough time. They have had to defer payments on their mortgages, and let me tell you, every dollar counts in that fishery, particularly this year.

One question asked earlier was what the percentage netting costs represents to overall vessel costs. That percentage varies tremendously. It depends upon how old the vessel is, whether the mortgage has been paid off, what the interest rates are. As we indicated, one of the primary operating costs is fuel. A number of vessels carry up to four nets. So whatever the cost of the netting is for these vessels can be multiplied four times. It depends upon the age of the net. In some cases, there is virtually no cost on netting in any given year. In another instance, you could lose your net or you could have an older net and require a lot of repairs. So it varies tremendously, vessel by vessel, fishery by fishery.

But my personal guess is that it is a relatively low percentage of the overall annual cost of a particular vessel.

Nevertheless, it can make the difference in a bad year, and it certainly can make the difference in the long term. We are up against subsidized foreign fleets. We are up against substantial numbers of foreign vessels. That is what we are targeting against, and every little bit helps.

Mr. GIBBONS. You say your people primarily represent the processors and distributors, is that right?

Mr. GUTTING. Yes, sir.

Mr. GIBBONS. How many people are employed in the processing industry?

Mr. GUTTING. Several hundred thousand.

Mr. GIBBONS. Several hundred thousand?

Mr. GUTTING. Yes, sir. We have 36——

Mr. GIBBONS. Does that include the 180,000 that are out fishing?

Mr. GUTTING. No, sir. We have 3,600 plants which process and distribute fish throughout the United States. These are in addition to the fishermen that we have been talking about.

Mr. GIBBONS. So for the want of a competitive net, fish are lost, and for want of a competitive fisherman, the fish processing industry is lost. So we lose 180,000 fishermen and hundreds of thousands of processors.

Is that right?

Mr. GUTTING. Yes, Mr. Chairman.

You know, it is really a shame. We are sitting on tremendous fishery resources, resources where we could double our production, and with all of these resources, we still are importing over half of our supply of fish products. We have just got to be more competitive.

Mr. GIBBONS. Mr. Hance.

Mr. HANCE. It is my understanding that fishermen do not have to pay the FUTA tax?

Mr. GUTTING. In the processing sector, we do pay it. The fishermen in some cases, because they are on a share basis, do not pay the tax. The shoreside workers are regular employees, even though they are part time.

Mr. HANCE. But the fishermen do not?

Mr. GUTTING. Some of the fishermen employed on vessels are treated differently and they do not.

Mr. HANCE. They have an exemption. In fact, the exemption is up for an extension.

Mr. GIBBONS. They would have to pay the self-employed tax, which today does not make any difference. When we changed the social security tax law, we really socked it to the self-employed.

Mr. FRITTS. The situation is if a crew has normally less than 10 people and the crewman receives his money as a share of the catch and no hourly rate, he is treated as an independent contractor, and the vessel does not pay FUTA tax, nor does he pay FUTA tax, although he is, as the chairman indicated, a self-employed individual and therefore has to pay his own social security.

Mr. HANCE. So the cost to the fisherman is not as much as if he were considered a regular employee.

Mr. FRITTS. The cost on the fishing vessel owner as the employer would be slightly less, yes.

Mr. GIBBONS. But the self-employed person has to pay the same tax as the person who is not self-employed. I mean, the total tax taken is the same now.

Mr. HANCE. But the FUTA exemption is up for renewal in front of Mr. Ford's committee. I would hope that with this being the case, that it would just be one more reason that maybe a compromise could be worked out.

Mr. GIBBONS. Well, I would hope we could work out something, too. We have got to have a more competitive fishing industry, and the way to do it is not to subsidize it, but to try to cut out its artificial costs.

Are there any other questions?

Thank you very much, gentlemen.

Our next bill for consideration is Mr. Stark's bill, H.R. 1624. We have the Cordage Institute which supports Mr. Stark's bill, represented by Mr. O'Dell. We also have the opposition here from Frank W. Winne & Son, represented by Mr. Connaughton.

Go right ahead.

First of all we will hear from the Cordage Institute.

STATEMENT OF WILLIAM R. O'DELL, PRESIDENT, WELLINGTON PURITAN MILLS, INC., MADISON, GA. AND PAST PRESIDENT, CORDAGE INSTITUTE, ACCOMPANIED BY ROBERT KEEFE, EXECUTIVE DIRECTOR, CORDAGE INSTITUTE

Mr. O'DELL. Mr. Chairman and members of the committee, I am Bill O'Dell, president of Wellington Puritan Mills located in Madison, Ga., and current president of the Georgia Textile Manufacturers Association, the trade association representing the textile manufacturers in Georgia, 104,000 employees, and past president of the Cordage Institute on whose behalf I appear today.

I am here to testify in favor of H.R. 1624.

The Cordage Institute is a trade association of manufacturers of natural and manmade fiber cordage products. The members manufacture all sizes and types of cordage products from twine used to wrap small packages to large hawsers used to tie up the Nation's

largest ships. For the most part, our members are small businessmen. The industry employs about 3,500 highly productive workers.

The domestic cordage industry has been able to stay competitive with foreign imports because Congress has, through the tariff schedules of the United States, prevented foreign manufacturers from dumping their products on the U.S. market without any compensating duties and tariffs. Some importers, however, have found a way to circumvent the intent of Congress. Synthetic cordage products imported into this country come in, or I should say, should come in under the cordage TSUS No. sub 316.55 and 316.58. Last June, however, several of our members reported seeing imported cordage coming in under a basket category in the tariff schedules item 774.5595 as articles not specifically provided for, rubber or plastics, other. Subsequently when I refer to that number, we will call that the basket category rather than call that number.

Upon investigation, we found that the U.S. Customs Service had made a ruling on the manufacturing process of cordage products that has no practical effect on the end product, but it does disqualify that product as a cordage under the definition contained in the tariff schedule.

Cordage manufactured from plastic material which falls within the dimensional requirements of a strip is classified as cordage. If the cordage is manufactured from plastic material over 1 inch in width, such material ceases to be considered as a textile fiber and is considered a plastic and is so classified under the tariff schedule.

The result is that two imported polypropylene cordage products of identical characteristics and use are classified under different tariff schedules and substantially different duty rates merely because one product is manufactured from plastic material that was originally made over 1 inch in width and another was not.

If you will pick up the two pieces of cordage in front you, a brief examination will give you an understanding of the problem we are trying to make you aware of.

The sample marked A is a piece of rope that qualifies under the tariff schedule. It is manufactured of a monofilament polypropylene wrap, and if you will look to the center of it, you will see there is a slightly different coloration in the center. If you spread the outside wrap, you will notice the inside of the product is manufactured of a different product. That product is manufactured, the inside portion of this piece of cordage is manufactured of a strip of plastic less than 1 inch in width, so it qualifies under the tariff schedule. There is tariff paid on it.

Sample B is a similar piece of rope, identical characteristics, identical functional use, and it qualifies as an exempt commodity, and the reason it qualifies is because the inside fibers were manufactured from a strip of plastic that exceeded 1 inch in width. Now, it might have exceeded it only by a 64th of an inch, but it exceeded 1 inch, and therefore it is coming in duty free.

Mr. GIBBONS. It looks like this tag is pasted on with that stuff.

Mr. O'DELL. That is correct, sir.

You might also realize that the people who are making the determination on whether this should be duty free have to first determine that strip was originally over 1 inch.

Mr. GIBBONS. Go ahead.

Mr. O'DELL. The situation is further aggravated by the fact that the basket category receives a generalized system of preferences treatment which means that importation of cordage entered under this category from certain beneficiary countries not only receives duty-free status but also opens the door for unlimited quantities of goods not subject to any quotas.

It is important to point out here, Mr. Chairman, that this is a fairly recent phenomenon. It was not until late 1981 that this loophole was discovered by agents of the South Koreans and not until 1982 that we in the cordage industry were able to observe the effects of it. As recently as 1977, the basket category represented only $2.2 million of imports. Even in 1981, the category represented only $8 million of imports. But then, in 1982 this category increased by almost 2½ times to over $18 million.

If the present trend continues through 1983, over $31 million will come in duty free in this year. We believe that an enormous quantity of polypropylene rope is included in these increased shipments. We also believe that the loophole is being actively and aggressively exploited to the detriment of the domestic cordage industry and in defiance of the will and intent of Congress.

As evidence that cordage products are coming in through this loophole, I would cite two graphic comparisons. In 1982, the Republic of Korea agreed to a bilateral negotiation to limit shipments of polypropylene cordage to this country to 3.5 million pounds. In fact, they exported in 1982 to this country only a little over 2 million pounds, or only about 60 percent of the quota that they agreed to limit themselves to. We believe that is clearly the reason this happened, is because it was coming in under the basket category at levels far, far in excess of the agreed upon quotas.

At the same timeframe, the domestic cordage industry sales have decreased precipitously.

Relief for the cordage industry and the restoration of the full intent of Congress can be effected by two methods. One method is to file a petition as described in section 516 of the Tariff Act of 1930 with the Customs Service to get them to change their ruling that we believe is a misclassification. This we have done. However, if the Customs Services considers our petition on an expedited basis, the absolute earliest that we could look forward to relief would be 9 months, and it could quite possibly run 12 to 18 months. By this time, there would be no cordage industry to save.

Our bill, H.R. 1624, is really very simple in its application. It would remove the distinction between identical pieces of cordage whose only difference is a minor change in the method of manufacturing. The tariff schedule to another, merely insures that all cordage products intended by Congress to come into this country under certain numbers in the tariff schedule will do just that.

We have the simple belief that Congress did not intend to have two identical pieces of rope coming into the country, falling under different items in the Tariff Schedules.

It is interesting to note that shortly after the bill was introduced, originally in the 97th Congress in September 1982, that a great deal of misinformation was circulated about the adverse economic effects that the bill would cause to the farmers. In 1982, a major

farm organization, Universal Cooperative, Inc., of Minneapolis, Minn., voiced objections to this legislation. They represent farm co-ops in 10 States, including major hay producing areas of the country.

I have in my possession a mailgram from Universal Cooperatives in which they state that they have reversed their objections and now vigorously support the legislation and the cordage industry's position.

I would like to read from that mailgram and ask that it be entered into the record because it did not accompany our written statement.

[The information referred to follows:]

UNIVERSAL COOPERATIVES, INC.,
Minneapolis, Minn.

CORDAGE INSTITUTE,
441 North Capitol Street,
Washington, D.C.

Recently, we supported the removal of duties from poly twine. This request was based on our objective to provide the lowest prices possible to American farmers.

We, however, are now reappraising the situation and are of the opinion that removal of the duty would in the long run cost the farmer more money. Specifically, baler twine is an extremely inelastic market with an extremely volatile price due to sudden shifts in demand. Foreign suppliers tried to periodically flood or abandon the market, causing a considerable amount of speculative type of buying on the part of the dealers and distributors. This action results in violent price swings which in turn bankrupt domestic suppliers. This was the case with the manufacturers of natural fiber baler twine, the last of which went bankrupt in 1979. Should the duty be removed the market will be vulnerable to international cartel, price fixing and violent swings in the market.

During our twine committee meeting held in New Orleans on April 28th and 29th, we poled the following regionals for their opinion:

Southern States, Richmond, Va.; Alabama Farmers, Decatur, Ala.; Agway, Syracues, N.Y.; Cenex, Minneapolis, Minn.; Fox, Inc., Raleigh, N.C.; Growmark, Inc., Bloomington, Ill.; Farmland Industries, Kansas City, Mo.; Landmark, Inc., Columbus, Ohio; MFC Services, Madison, Miss.; and MFA, Inc., Columbia, Mo.

Only one voted for the removal of the duty.

LOYAL W. LEITGEN.

Mr. O'DELL. We, however—and I read this from the mailgram in part—we have, however, now reappraised the situation and are of the opinion that the removal of duty would in the long run cost the farmer more money. Specifically, bailer twine is an extremely inelastic market with an extremely volatile price due to the sudden shifts in demand, foreign suppliers trying to periodically flood and abandon the market, causing a considerable amount of speculative type of buying on the part of the dealers and distributors. This action results in violent price swings which in turn bankrupt domestic suppliers. This was the case for the manufactures of baler twine, the last of which went bankrupt in 1979. Should the duty be removed, the market will be vulnerable to international cartel, price-fixing, and violent price swings in the market.

That ends that quotation.

We believe that this clearly outlines the cordage industry's position relating to the farm community.

In summary, Mr. Chairman and members of the committee, I implore you to report H.R. 1624 quickly and close this loophole that is rapidly destroying the ability of the domestic rope manufacturers to survive.

[The prepared statement follows:]

Statement of the Cordage Institute Presented by William O'Dell

Mr. Chairman and members of the Committee, my name is William O'Dell and I am President of Wellington Puritan Mills in Madison, Georgia; current President of the Georgia Textile Manufacturers Association with its 104,000 employees; and president of the Cordage Institute on whose behalf I am here today. I am here to testify in favor of H.R. 1624.

The Cordage Institute is a trade association of manufacturers of natural and man-made fiber cordage products. Since its founding in 1920, the Cordage Institute has been the collective voice of this important industry. It has a history of service to the country and to the customers, distributors and manufacturers of cordage products made from natural and man-made fibers. The institute has 22 regular members and 3 associate members located in 16 states. The members of the Cordage Institute manufacture all sizes and types of cordage products from twine used to wrap small packages to large hawsers used to tie up the nation's ships of war. For the most part the members of the Cordage Institute are small businesses struggling to survive in a highly competitive and recessionary economy. The cordage industry has been resilient and flexible and has been able to meet the challenges of a volatile econ omy.

The 3500 workers in the cordage industry today are highly productive. The U.S. Department of Commerce Census of Manufacturers has shown that the value added per employee in the

U.S. cordage industry nearly doubled between 1967 and 1977. In terms of value added per production worker hour, the increase in productivity was over 120% during that same period. The strong positive finding in this area helps to explain the domestic cordage industry's record of declining real prices and international competitiveness during the highly inflationary 1970's. Even in the face of increasing imports, the domestic cordage industry has been able to demonstrate it's commitment to remain competitive internationally.

In part, the domestic cordage industry is able to stay competitive because the Congress has, through the Tariff Schedules of the United States, prevented foreign manufacturers from dumping their products on the United States market without any compensating duties or tariffs. The preservation of international price competition by the domestic cordage industry is in danger as are a substantial number of the domestic manufacturers because some importers have found a way to circumvent the intent of Congress to keep distribution and sales of cordage products in this country on a competitive basis.

The synthetic cordage products imported into this country come in, or should come in, under the cordage T.S.U.S. numbers of 316.55, 316.58. We discovered last June however, when, at our semi-annual meeting, several members reported seeing imported cordage products that were not coming in under the normal cordage T.S.U.S. numbers, but coming in under a basket

category in the Tariff Schedules item 774.5595 as.."Articles not Specifically Provided for, Rubber or Plastic: Other." Upon investigation we found that the U.S. Customs Service had made a ruling on the manufacturing process of cordage products that has no pratical effect on the end product but does disqualify that product as cordage under the definition contained in the Tariff Schedule.

Cordage manufactured from plastic material which falls within the dimensional requirements of a "strip" is classified as cordage. However, if the cordage is manufactured from plastic material over one inch in width, such material ceases to be considered as a textile fiber and is considered plastic and is so classified under the Tariff Schedule. The reason underlying this difference in classification is that the current definition of cordage as contained in Schedule 3 Part 2 -- Headnote 1(a) restricts cordage to "...assemblages of textile fibers or yarns ..." and therefore cannot be classified as cordage according to the Customs Service. Consequently, such cordage made from plastic material is classified by the Customs Service under Schedule 7 Part 12, Subpart D, Item 774.5595 as "Articles not Specially Provided for of Rubber or Plastic: Other" (I have attached to our testimony as appendix A a copy of a Customs Service letter ruling on this issue.) The result is that two identical importations of polypropylene cordage of identical characteristics and use are classified under differing Tariff Schedule categories at substantially different duty rates merely because one product was manufactured from plastic material over one inch in width while the other was not.

Foreign manufacturers have taken full advantage of this discrepancy in the Customs law. They have been certain that the cordage they produce for exportation to the United States is constructed of plastic material over one inch in width in order to enjoy the advantages of lower, or no duty and to, consequently, afford themselves an economic advantage over the domestic cordage industry. The situation is further aggravated by the fact that Item 774.5595 receives Generalized System of Preferences treatment which means that importation of cordage entered under item 774.5595 from certain beneficiary countries receive duty-free status. Additionally, there are quota restrictions on cordage products entered under items 316.55, 316.58, but no quota restrictions under item 774.5595. Therefore, not only is the foreign manufacturer receiving the benefits of a lower duty or no duty from cordage made from plastic material entered under item 774.5595; he is also totally certain of no quota restrictions. It is important to point out here, Mr. Chairman, that this is a fairly recent phenomenon. It was not until late in 1981 that this loophole was discovered by agents of the South Koreans and not until 1982 that we were able to observe the full effects.

Attached to our testimony as appendix B is a paper prepared by the Institute that summarizes the economic conditions of the industry in relation to foreign competition. The paper was prepared to provide information to the United States Trade Representative for their bilateral negotiations with the Republic of Korea in support of the Cordage Institute request for

relief against the flood of imports from Korea of cordage products. The United States Trade Representative did negotiate a quota in the subject tariff items as a result of the Cordage Institute request.

The paper demonstrates the precarious nature of the domestic industry in regard to the low price of foreign imports, a case that was convincing to the United States Trade Representative before it was known that competitive products were entering the United States duty-free through a loophole in the Tariff Schedule.

For previous years, as the following chart shows, this basket category represented only $2.2 million as recently as 1977. Even in 1981 the category represented only $8 million of imports but then, in 1982, this category increased by almost two and one half times to over $18 million.

Valuation of T.S.U.S. Item 774.5595

1977	$2,242,000
1978	$4,622,000
1979	$8,062,000
1980	$7,503,000
1981	$8,039,000
1982	$18,043,957

From our reading of the Journal of Commerce Weekly Import Bulletin, we believe that an enormous quantity of polypropylene rope is included in these increased shipments. We also believe that the loophole is being actively and aggressively

exploited to the detriment of our domestic cordage industry and in defiance of the will and intent of Congress and the United States Trade Representative.

As evidence that cordage products are coming in through this loophole I would cite two graphic comparisons.

In 1982 the Republic of Korea agreed to limit shipments of polypropylene cordage products to this country to 3,500,000 pounds up from the 1,885,059 pounds they shipped to this country in 1981. In fact, they exported to this country in 1982 only 2,111,129 pounds under the cordage categories or only about 60 percent of their quota.

In 1982 the domestic cordage industry recorded a precipitous drop in sales of polypropylene cordage to 16,421,200 pounds in 1982 from 20,579,900 pounds in 1981. A decline of over 20% at a time when the economy was improving.

Relief for the cordage industry and the restoration of the full intent of Congress can be effected by two methods. One method is to file a petition, as described in section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516) with the Customs Service to get them to change their ruling that we believe is a misclassification.

For tariff purposes, "the term 'strips' embraces strips (including strips of laminated construction) whether or not folded lengthwise, twisted, or crimped, which in unfolded, untwisted, and uncrimped condition are over 0.06 inch but not over one inch in width and are not over 0.01 inch in thickness." "Plexiform filaments" are defined as "flexible filaments each of which consists of a network or plexus of fine fibers and

which are suitable for the manufacture of textiles." Plexiform filaments and strips are thus two distinct types of textile fibers. Each has its own definition, and the definitions do not refer or relate to one another in any way. The definition of a textile strip does not define strips in any fashion other than to ambiguously state that a "strip" is a "strip" not over one inch in width. The definition of a plexiform filament, however, imposes no dimentional restrictions. To arbitrarily do so is clearly beyond the statutory and regulatory authority of the Service.

However, even if the Customs Service considered our petition on an expedited basis the absolute earliest we could look forward to relief, given the statutory time required for comment periods and economic impact statements, would be 9 months and it could run 12 to 18 months. Such delay would be disastrous to the cordage industry and could mean the demise of some of our members. The fastest way to reinstate congressional intent, we believe, is through legislation. Our bill H.R. 1624, and its companion legislation S. 230, is really very simple in it's application; it would remove the distinction between identical pieces of cordage whose only difference is a minor change in method of manufacture. It would permit the Customs Service to look at a piece of 3/16 inch rope and say, "That's a piece of rope" without sending it off to the laboratory to find out whether or not it had been made out of strips greater or less than one inch in width. By their own admission the Customs Service has said that "...it is quite difficult to determine the exact original width of a strip after it has been fully fibrillated..."

We realize that there are many distinctions in the Tariff Schedules between products and that definitions serve a purpose in determining the value of a product for tariff purposes. For instance, extra ornamentation or an added finish can change the value of a product and it could logically be classified under a different item number that reflects that changed value. But the definition of the product itself would not be changed. Adding ornamentation to a shirt might change the value of the shirt but it would still be called a shirt. The effect of the current law is to say that, because of it's method of manufacture, a piece of rope is, in fact, not rope. We believe that circumstance is neither reasonable, nor logical, nor the intent of Congress.

H.R. 1624 does not reclassify an item from one catagory in the Tariff Schedule to another, it merely ensures that all cordage products intended by Congress to come into this country under certain item numbers in the Tariff Schedules will do just that. We have the simple belief that if the Congress intended one piece of rope imported into this country to fall under certain cordage item numbers in the Tariff Schedule, they intended every piece of rope to fall under cordage items in the Tariff Schedule.

At present this problem is an immediate one for the Cordage Institute and all manufacturers of cordage products. If this loophole is left open, however, we believe that foreign manufacturers will not only continue to make cordage products from plastic strips a little wider than an inch, but that it is

entirely possible that they will be making woven fabrics as well. There is clearly the technology available to make woven plastic seatcovers or tarpaulins or other items that are generally believed to be textile products out of these plastic strips wider than an inch. Because this is a clear and present danger, we have the support of The Man-Made Fiber Producers Association behind this bill.

It is interesting to note that shortly after the bill was originally introduced in the 97th Congress in September, 1982, a great deal of misinformation was circulated about the adverse economic effects of this bill on the farmers. I would hasten to point out that in fact, the only adverse consequences suffered by the American farmer will be if this bill is not passed.

In 1982 the amount of baler twine that was shipped within this country (according to The Textile Economic Bureau) was 166 million pounds. Of that 166 million pounds, 145 million pounds was sisal baler twine, a natural fiber twine that is imported into this country from Brazil, Mexico, and some East African countries without quota and without duty. That represents 86% of all the baler twine that is used in this country. The remaining 21 million pounds, or 14% is plastic or polypropylene twine, virtually all of which is made in this country - domestically produced.

Historically there has been a 20% price differential between sisal or natural fiber twine and plastic twine, with the plastic twine being less expensive. Since there is currently an insignificant amount of plastic baler twine being imported

into this country, this bill would have a negligible effect on the price of plastic baler twine and of course it would have no effect whatsoever on the status of the imported sisal twine. Moreover, Mr. Chairman and members of the Committee, I would submit if this bill is not passed and, as a result, manufacturers of baler twine go out of business because they cannot compete with their other products as long as this loophole stays open, then the American farmer will be at the mercy of a foreign cartel for his sisal baler twine and, if plastic baler twine is imported, he will be at the mercy of one or possibly two importers.

I believe, without fear of successful contradiction, the domestic baler twine manufacturers in this country are having a moderating effect of the price of all baler twine.

In summary, Mr. Chairman, and members of the Committee, I implore you to report H.R. 1624 quickly and close this loophole that is rapidly destroying the ability of the domestic rope manufacturers to survive.

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE
NEW YORK, N.Y.

APPENDIX A

FEB 11 1982

REFER TO
CLA-2-03:S:C:D7:73-54
802234

Dear [redacted]:

In your letter of January 22, 1982, you requested the tariff classification for polypropylene twine from Portugal, Korea, or Taiwan.

Five samples of polypropylene twine, ranging from 375 to 1100 feet per pound, were submitted with your inquiry. The twine is produced from extruded polypropylene film which has been slit into strips. These strips are then fibrillated and twisted into cordage.

The tariff classification of this type of merchandise is determined by the dimensions of the individual strips prior to fibrillation. Cordage which is produced from strips not over one inch in width is considered to be of man-made fiber textile material. Strips which are over one inch are considered plastic for tariff purposes. As it is quite difficult to determine the exact original width of a strip after it has been fully fibrillated, we cannot state with absolute certainty which of your samples fall into each category. We would therefore suggest that you check with your suppliers to ascertain the exact width of the strips prior to fibrillation.

After examining each of the five items, it is our opinion that at least three of the samples are produced from strips under one inch in width. If this is in fact the case, then samples (C) 900 natural, (D) 1000 black, and (E) 1100 hemp are classified under the provision for cordage of man-made fibers measuring under 3/16 inch in diameter, in item 316.55, Tariff Schedules of the United States, with duty at 10 cents per pound plus 13.8 percent ad valorem.

Due to the larger size and extensive fibrillation of items (A) 375 natural and (B) 450 natural, we are unable to determine the width of the strips from which these samples were produced. If strips under one inch were fibrillated, then classification would be under TSUS item 316.55, as discussed above. However, if these two twines are produced from polypropylene strips over one inch in width, they are classifiable under the provision for articles not specially provided for, of plastics, in item 774.55, TSUS, and dutiable at 7.3 percent ad valorem.

REPLY TO: AREA DIRECTOR, NEW YORK SEAPORT, U.S. CUSTOMHOUSE, NEW YORK, NEW YORK 10048

EXHIBIT "A"

Cordage of man-made fibers may be subject to import restraints (quotas) based on international trade agreements. Import restraints are imposed by the U.S. Customs Service under directives of the Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, D.C. 20230. Polypropylene twine, produced in Korea or Taiwan and classified in TSUS item 316.55, requires a visa for category 605. Due to the changeable nature of these restraints, you are advised to contact your local Customs office prior to importation of this merchandise to determine the current status of such restraints.

Articles classifiable under item 774.55, TSUS, which are the products of Portugal or Korea are entitled to duty free treatment under the Generalized System of Preferences (GSP) upon compliance with all applicable regulations. Taiwan is currently excluded from this duty exemption. However, the recently published ten month figures for items included under GSP indicate that, effective March 31, 1982, Taiwan may regain its duty-free status for tariff item 774.55.

This ruling is being issued under the provisions of Section 177.1(a)(1) of the Customs Regulations [19 C.F.R. 177.1(a)(1)].

Sincerely,

John J. Kartuge
Area Director
New York Seaport

APPENDIX 1

ECONOMIC ANALYSIS OF THE PRESENT AND FUTURE COMPETITIVE POSITION OF THE U.S. SYNTHETIC CORDAGE INDUSTRY: AN AGENDA FOR BILATERAL TEXTILE NEGOTIATIONS WITH THE REPUBLIC OF KOREA

Submitted By:

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Robert J. Keefe, Executive Secretary

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(202) 965-6670

SUMMARY

The American synthetic cordage industry is suffering market disruption due to Korean imports. To avoid further injury to this industry, the discipline provided for in the Multifiber Arrangement (MFA) should be imposed as part of the bilateral agreement on textile trade now being negotiated with the Republic of Korea. A specific limit or sub-limits, with moderate growth coupled to the growth in domestic consumption should be set.

This submission to the Office of the U.S. Trade Representative and the Department of Commerce by the Cordage Institute, the industry's principal trade association, is designed to supply the United States negotiators with "a detailed factual statement of the reason and justification for this request including the latest [available] data concerning elements of market disruption." MFA, Art. 3, para. 3.

While liberalization of world trade in textiles is indeed an objective of the MFA, it is by no means its sole objective. Equally envisioned is a process, effected through bilateral negotiations, that avoids "disruptive effects in individual markets and on individual lines of production in both importing and exporting countries". MFA, Art. 9, para. 2. What is envisaged, then, is not absolute obedience to either of these sometimes divergent goals, but a balancing that affords proper weight to each.

The market disruption (and threat of further disruption) discussed in detail in this memorandum strongly suggests that the sharp increases in Korean synthetic cordage imports at extraordinarily low prices may be attributable in no small measure to unfair import practices (e.g., dumping or subsidies) that violate the spirit of both the MFA and the current, outstanding bilateral agreement between the U.S. and Korea. The Cordage Institute does not as yet have data sufficient to demonstrate such possible claims; in any event, the Institute wishes to observe the injunction of the MFA to employ MFA safeguards in preference to unilateral import restraint actions. See, MFA, Art. 9, para. 1.

UNDER THE MFA'S CRITERIA, THE DOMESTIC SYNTHETIC CORDAGE INDUSTRY HAS BEEN SERIOUSLY DAMAGED AND IS THREATENED WITH FURTHER SUCH DAMAGE

The American synthetic cordage industry displays all, or nearly all, of the indicia of serious damage identified by the MFA. The MFA provides that "[t]he existence of damage shall be determined on the basis of an examination of the appropriate factors having a bearing on the evolution of the state of the industry in question". MFA, Annex A, para. I. Ten such factors, "no one or [several of which] can necessarily give decisive guidance," are set forth: " . . . turnover, market share, profits, export performance, employment, volume of disruptive and other imports, production, utilization of capacity, productivity, and investment." Id. (Note that import penetration, a

significant index of import volume, is but one of the factors enumerated.)

The body of this memorandum contains analytical findings as to each of these ten factors. In brief, our findings are as follows:

Turnover. Actual sales of synthetic rope by members of the Cordage Institute have declined by 23 percent from 1979 to 1980, and by an additional 3 percent from 1980 to 1981 (see Table 5).

Market share. The progressive deconcentration of the industry is discussed in Section I of the paper, but is graphically summarized in Table 8, which shows that the largest nine firms in the industry have accounted for ever-decreasing shares of total Cordage Institute sales of synthetic rope. When data from Tables 3 (total Cordage Institute sales) and 15 (imports) are compared, it may be seen that the overall market share of the domestic industry has been steadily declining -- from 92.5 percent in 1973 to 85.1 percent in 1977 to 75.7 percent in 1981.

Profits. Cordage Institute members report instances of price suppression as a result of extremely low-priced imports in recent years.

Export performance. Exports as a percent of shipments (see Tables 13 and 1) were 7.95 percent in 1977, which compares favorably with a number of related industries. Since then, however, the ratio of exports to total shipments has been

declining. This situation is exacerbated by Korea's use of an import licensing program which requires the deposit of a 40% duty on synthetic cordage before a license is granted and entry permitted.

Employment. Using a "control group" to correct for employment patterns that are attributable only to changes in the membership of the Cordage Institute, it is seen (Table 30) that a deteriorating employment situation has occurred in the U.S. synthetic cordage industry. The number of employees declined by 13.5 percent, and the number of employee hours worked declined by 8.6 percent, from 1980 to 1981.

Volume of disruptive and other imports. Tables 15 and 21 document the dramatic increases in the volume of synthetic cordage imports, from all sources and from South Korea. Table 15 shows that imports of synthetic rope have increased by 156 percent between 1973 and 1981 (more than any other cordage category). Table 21, and particularly Figure 1, show the disruptive "surge" in synthetic rope imports specifically from South Korea. In absolute terms, import penetration generally and that of Korea specifically are not extraordinarily high, but in the context of the synthetic cordage industry, which is deconcentrated, highly competitive and extremely price sensitive, levels such as those here are significant.

Production. While specific production data are not now available from U.S. Government or industry sources, evidence outlined above concerning the drop in industry sales and in

employee hours worked, together with a probable inventory depletion during the past 18 months in response to high interest rates, all point to the likelihood of substantial cuts in production for the domestic industry overall.

Utilization of capacity. Accompanying the shift in U.S. cordage markets from natural to synthetic fibers during the past two decades (see Section I) has been the encumbrance of full-line U.S. cordage producers with substantial idle capacity formerly used in the production of hard fiber cordage. To this has been added additional idle capacity in conjunction with likely production cuts, as noted above.

Productivity. Data from the most recent Census of Manufactures show that value added per employee in the U.S. cordage industry nearly doubled between 1967 and 1977, rising from $9,352 to $18,242. In terms of value added per production worker hour, the increase in productivity was over 120 percent during 1967-1977 (from $5.54 to $12.26 per production worker hour). The strongly positive finding in this area helps to explain the domestic industry's record of falling real prices during the highly inflationary 1970s (see Table 6).

Investments. According to the latest Census of Manufactures, new capital expenditures by the U.S. cordage industry averaged $6.5 million annually between 1967 and 1977. During the same period, the gross value of fixed assets in the industry rose more than 63 percent. These findings are positive, since they indicate the domestic industry's commitment to remain

competitive internationally. The results of this commitment are shown by the price performance of domestic and foreign cordage producers in Figure 2.

Of the ten economic factors cited in the MFA as relevant to a determination of the existence of damage to domestic producers, analysis has shown results supporting a finding that damage as defined by the terms of the MFA, clearly exists in the U.S. synthetic cordage industry.

THE DAMAGE SUSTAINED BY, AND THREATENED TO THE AMERICAN SYNTHETIC CORDAGE INDUSTRY IS, UNDER THE TESTS OF THE MFA, CAUSALLY RELATED TO KOREAN IMPORTS

Before discipline may be applied under the MFA, of course, imports must be shown to have caused the market disruption complained of. To justify discipline, within the terms of the MFA, the damage "must demonstrably be caused" by one (or both) of two specified factors: "(i) a sharp substantial increase or imminent increase of imports of particular products from particular sources" and (ii) the products are offered at prices which are substantially below those prevailing for similar goods . . . in the market of the importing country." Damage caused by such factors as technological changes or changes in consumer preferences do not justify the imposition of discipline. MFA, Annex A, para II. Each of those two factors is present with regard to synthetic cordage imports from Korea.

THERE HAVE BEEN SHARPLY INCREASED IMPORTS

The first factor is "a sharp substantial increase or imminent increase of imports of particular products from particular sources." If the claim is of imminent increase, it must be "measurable" and not based upon conjecture.

That there has been such an increase of imports of synthetic stranded rope from South Korea is graphically illustrated in Figure 1 and documented in Tables 21 and 22. Imports of this particular product from this particular source have in the past five years far outstripped those from all other sources combined.

Further, the removal in 1980 of a previous restraint on Korean synthetic stranded rope immediately led to a sharp upswing in imports in that category at a time when imports from other countries were stagnant or declining (44 Fed. Reg. 76573 (1979) (restraint imposed); 45 Fed. Reg. 64625 (1980)(restraint removed)).

This recent sharp increase, following on the heels of the lifting of the restraint, demonstrates measurably that the sharp upward trend of the recent past will continue to higher, unacceptable levels if discipline is not imposed. This projection is both buttressed and confirmed by the anticipated effect of the recently concluded MTN phased tariff reductions which will, on average, reduce cordage duties by 10 percent over the next five years. To a price sensitive market such as this one that is

highly significant and, of course, will, as demonstrated by Tables 31 and 32, reduce Korea's already low prices still further.

KOREAN SYNTHETIC CORDAGE PRICES HAVE BEEN EXTRAORDINARILY LOW

The second factor that may be a cause of damage such as to justify discipline under the MFA is the offering of the goods in question "at prices which are substantially below those prevailing for similar goods of comparable quality in the market of the importing country," by comparison with the prices both of domestically produced goods and goods imported from other countries.

Tables 25 through 27 clearly document that imports of synthetic stranded rope from South Korea have consistently undersold those from all other sources, on average. Data from Table 6 shows that they have undersold domestic producers as well. Figure 2 demonstrates graphically that prices of this particular product from this particular source have been substantially below those prevailing for similar domestic and imported goods.

There can be but two explanations for this phenomenon: Either there has been extraordinary efficiency on the part of Korean producers -- a possibility given little support by the available facts -- or purposeful price suppression in some form or forms. In either case, the second causation criterion clearly has been met in this instance.

CONCLUSION

Both the existence of damage to the American synthetic cordage industry and its causation by imports of synthetic cordage from the Republic of Korea require that discipline under the MFA be imposed upon such imports. Waiting until the absolute percentage of import penetration reaches some higher level may prove fatal to the domestic industry. Action under the MFA is essential now if it is to be effective at all and if resort to unilateral import restrictions is to be avoided.

The following specific limit and sub-limits at current 1981 import levels should be placed upon imports of synthetic cordage from the Republic of Korea.

Category 605	1,696,000 lb.
of which no more than 1,609,000 lbs. shall be of TSUS 316.6020	
Category 669	1,252,000 lb.

with an overall sublimit for all six cordage products: TSUS 316.6010; 316.6020; 348.0065; 348.0075; 348.6565; and 348.0575 of 2,948,000 lb.

Annual growth levels should thereafter be based upon consumption, so as to permit reasonable, orderly access to the United States market avoiding further harm to efficient domestic producers.

Figure 1

U.S. IMPORTS OF SYNTHETIC, STRANDED ROPE (TSUS 316.6020),
1972 - 1981

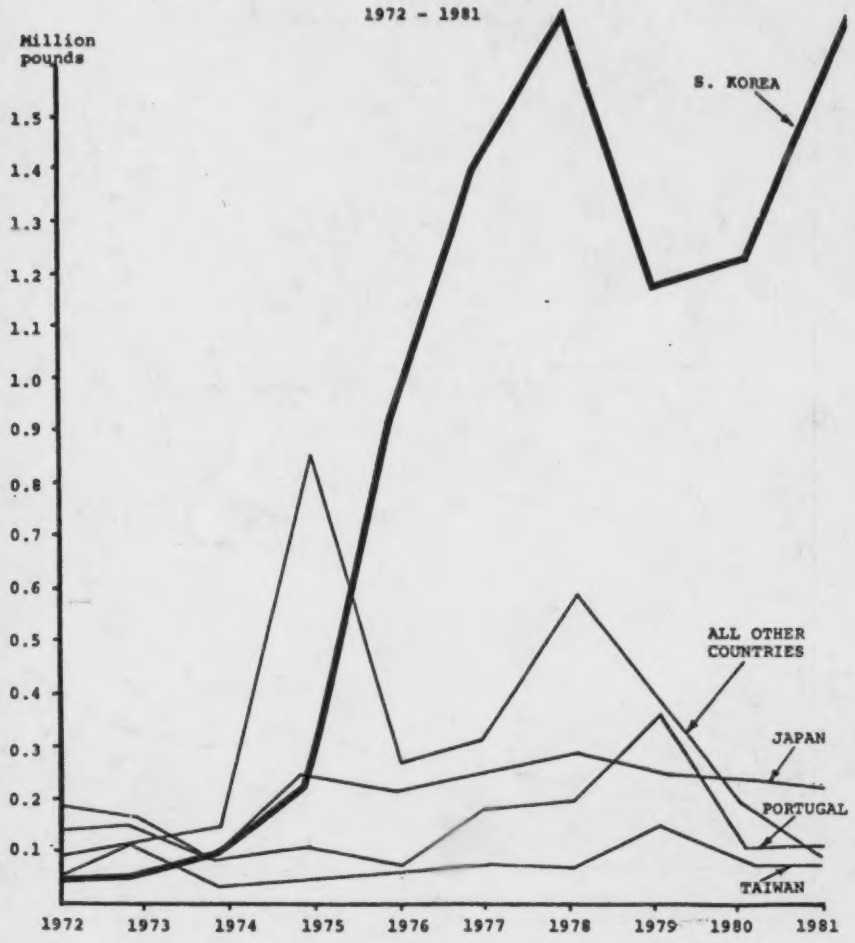
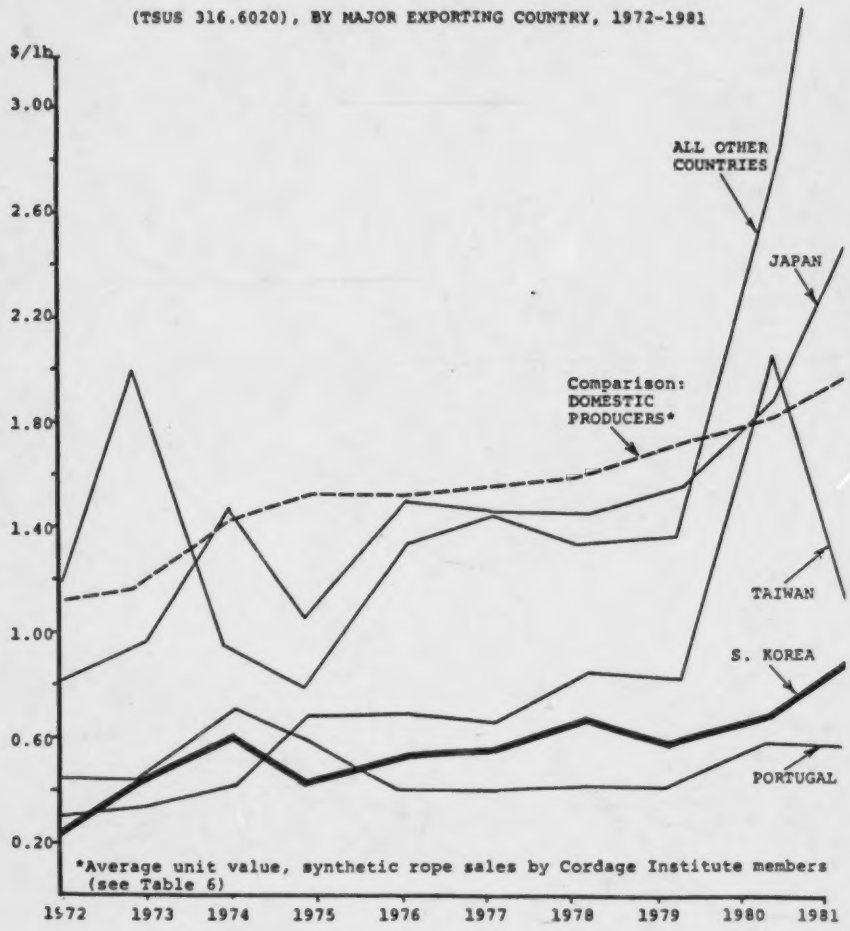


Figure 2

AVERAGE UNIT VALUES, U.S. IMPORTS OF SYNTHETIC, STRANDED ROPE (TSUS 316.6020), BY MAJOR EXPORTING COUNTRY, 1972-1981



*Average unit value, synthetic rope sales by Cordage Institute members (see Table 6)

Summary Data

U.S. - KOREAN TRADE IN SYNTHETIC CORDAGE PRODUCTS

1. Domestic sales currently are stagnant or declining for all categories of synthetic rope:

	Percent change, 1979-1980 (lbs)	Percent change, 1980-1981 (lbs)
Polyesters	-19.6%	-3.3%
Nylon	-32.3%	-8.5%
Olefins (Polypropylene)	-19.2%	+0.4%
TOTAL SYNTHETICS	-22.9%	-2.9%

2. Domestic sales of synthetic twine -- historically about 1/4 of the industry's total dollar sales -- had been increasing strongly from 1977 through 1979 (annual average +56.5%). These slowed sharply in 1980 (+5.9%), then declined in 1981 (-1.9%).

3. During this period, overall imports of synthetic cordage were affected less severely by the 1980 drop in demand, and recovered rapidly in 1981:

	% of total imports, 1981	Percent change, 1980-1981 (lbs)	Percent change, 1980-1981 (lbs)
Synthetic rope (TSUS 316.6020, TSUS 348.0075, TSUS 348.0575)	(84%)	-12.6%	+21.0%
Synthetic twine (TSUS 316.6010, TSUS 348.0065, TSUS 348.0565)	(16%)	-14.3%	+54.3%

4. During this same period, imports of synthetic cordage from Korea have risen even more rapidly:

	Percent change, 1979-1980 (lbs)	Percent change, 1980-1981 (lbs)
Synthetic rope	+17.2%	+36.5%
Synthetic twine	-32.0%	+97.5%

5. Korea has rapidly assumed a dominant position among foreign suppliers of synthetic cordage during the past ten years:

	1972	1981
Korean imports as % of total:		
Synthetic rope (TSUS 316.6020)	7.2%	73.5%
" " (TSUS 348.0575)	4.8%	72.0%
Synthetic twine (TSUS 348.0565)	negl.	67.8%

**PLEASE NOTE -- TSUS Numbers 316.6010 and 316.6020 were changed to TSUS Numbers 316.5500 and 316.5800 respectively as of January 1, 1982.

Chairman GIBBONS. There is no difference in the rope as far as tensile strength is concerned, or wearability or anything else; is that right?

Mr. O'DELL. The physical characteristics of these two ropes are essentially identical.

Chairman GIBBONS. And the one which comes in duty free is made of a strip of material that is allegedly more than 1 inch wide?

Mr. O'DELL. The core of that particular rope is allegedly more than 1 inch in width.

Chairman GIBBONS. On the sample which I hold you have it stuck onto a strip of the 1-inch film.

Mr. O'DELL. That is correct, sir.

Chairman GIBBONS. How did we ever end up with two different classifications of rope?

Mr. O'DELL. We feel that it was clearly an error in the judgment of the Customs Department officials who made the decisions.

Mr. KEEFE. Mr. Chairman, if I might, I am Bob Keefe, executive director of the institute. I think it is a classic case of reverse engineering that we have heard about in the high tech field being applied to the cordage industry.

The Tariff Schedules of the United States were minutely scrutinized, and they found that you can use a product that will, in the manufacturing process, given the new types of materials, that is in fact a width of filaments and it can be used in various sizes. And they have reverse engineered to get it around the tariff classifications. It is as simple as all that really.

Chairman GIBBONS. Mr. Frenzel.

Mr. FRENZEL. Mr. Chairman, the administration testified against this bill. And it is my understanding that you have asked customs for a reclassification twice before, and they have said no each time.

Mr. O'DELL. I am not aware that we have filed a petition with customs prior to this. We filed very recently.

Mr. FRENZEL. It is my understanding the USTR's position is that what was happening was well understood, and that this was negotiated in the last go-round, and that if we were to change this now, we would have to renegotiate. But it is not quite so much of an oversight as your testimony would have indicated.

Mr. O'DELL. Mr. Frenzel, if I may respond to that.

Mr. FRENZEL. Please.

Mr. O'DELL. If that was considered in the negotiations, it was, I think, unfortunately only the negotiations. We had limited Korea to 3½ million pounds. With this oversight there is absolutely no limitation on the amount of rope Korea can ship into the United States.

Mr. FRENZEL. Well, Mr. Chairman, may we have our staff get another statement out of the trade representative's office so we can understand their position?

Mr. KEEFE. Mr. Chairman, we had a meeting of our institute last summer in Washington, and they met that morning with Mr. Murphy who had just flown back from Korea where he had successfully and very happily announced that he had completed negotiations with the Koreans on a bilateral agreement to limit import of cordage products. He had done so on the basis of our pleadings

with them, and he did a fine job. That afternoon we discovered that there was a loophole in existence, and if he knew about it, he did not tell us about it, and if he did not know about it, he was taken in by the Koreans rather drastically.

Mr. FRENZEL. We will find out what he knew and what he did not know.

I have another problem with the Knight letter or whatever it was, the speed-o-gram, that you put into the record. I have a copy of it myself furnished to me sometime after I was called by other representatives of the same organization who were standing in opposition to the bill. And I am trying to get an official statement from the company.

I have now one from a chap that signed this mailgram, I guess, and one from a man who spoke to me personally; and I have now taken to polling these people myself, at least the ones that are close to my area. And it is rather hard so far to find people who are willing to make a statement.

This letter, of course, does not say whether these people are neutral or whether—it says one was for removing the duty. And I must say that I am in some confusion about that letter.

I also note that some groups have testified against or have indicated they are against it. Can you shed some light on those conflicting agricultural opinions?

Mr. O'DELL. I think that first you should understand that polypropylene twine used in the hay baling industry in the United States represents a very minute percentage of the total twine used in the baling of hay, probably in the magnitude of 14 percent of all twine used is polypropylene twine.

It is not a significant market. It is not a significant volume. Out of 166 million pounds shipped within the United States, polypropylene is a very small percentage of it that is used. Virtually all of the balance of hay baler twine is imported currently, and it is made of natural fibers.

If we did not have the ability to manufacture and compete in the manufacture of polypropylene twine, we would turn that market over completely to imported products. And I think this is the sense of the letter from the cooperative, that they are concerned about being in the position where we have found ourselves in the past where hay baler twine gets to be scarce from imported sources, and the price can escalate at unbelievable rates.

Mr. FRENZEL. Thank you.

Mr. Chairman, I yield the balance of my time.

Chairman GIBBONS. Thank you very much.

Mr. CONNAUGHTON. Can I testify now, Mr. Chairman?

Chairman GIBBONS. Yes.

STATEMENT OF THOMAS A. CONNAUGHTON, COUNSEL, FRANK W. WINNE & SON, INC.

Mr. CONNAUGHTON. My name is Thomas Connaughton. I represent Frank W. Winne & Son, Inc. Frank W. Winne is a distributor of both domestic and imported binding and tying materials.

We welcome the opportunity to express our views in opposition to this legislation, and I will try to summarize our reasons for opposing this bill as quickly as I can to the subcommittee.

First, as the Cordage Institute testified, an administrative proceeding has been filed which can address the alleged concerns of the industry. We believe it would be unwise to enact this legislation which is very far-reaching, and we think it is far-reaching, when this remedy is available to the proponents of the bill.

Second, the plastic materials affected by H.R. 1624 are bound items under GATT, and if the bill is enacted, compensation would be required to those nations which export the materials to the United States.

Third, the legislation would adversely affect important segments of the U.S. economy, particularly agricultural and marine interests. The cost of materials for the consumer would increase by about 20 cents per pound.

In this regard I would like to note a little bit different understanding regarding the market for baler twines. As I understand it, as my client, based upon experience, believes, the plastic baler twines represent about 20 percent of the baler twine market, and that percentage is growing. I do not know what is behind the confusion at Universal. I have talked to representatives of other farm groups who are opposing this bill. They see the competition from the imports in the plastic market as being very healthy. They also think that the competition in the plastics creates downward pressures in the sisal twine markets.

Further, Mr. Chairman, we disagree with the proponents of this bill on the merits of the classification issue. The Tariff Schedules define textile fibers. They include certain materials, and they exclude certain materials. Excluded are the 1-inch plastic strips from which these materials are manufactured.

The domestic industry claims that this is a loophole. No one ever envisioned that these materials could be used in a way to compete with traditional textile purposes.

Our research leads us to exactly the opposite conclusion. The debate regarding the distinction between plastics and textiles has been going on for over 50 years. Most recently, the Tariff Commission considered this issue at length in its study in the late 1950's which led to the rewriting of the Tariff Schedules.

At that time the domestic textile industry argued strenuously that 1-inch strips and other materials which were to be excluded could be used for what they considered traditional textile purposes and that they should be classified as textiles. The Commission, however, rejected the subjective use test. It noted that with plastic materials and textiles there is so much overlapping use that the most sensible way to go on this question was to set an objective criteria based upon the physical characteristics of the material involved.

Specifically, they excluded such materials as 1-inch plastic strips from being considered textile fibers. They also excluded monofilaments in excess of a sixteenth of an inch, well knowing that these materials could be used for traditional textile purposes.

Now, this precedent has stood for about 20 years, and we have had a distinction throughout the textile sections of the Tariff

Schedules, which defines plastic and which defines textiles. This distinction is followed by most trading nations. The BTN has very similar objective criteria.

H.R. 1624 would ignore all of this precedent in the name of closing an alleged loophole, set us apart from the rest of the world and considerably confuse the textile schedules.

What the proponents of this bill would do in this case would be, to say that cordage does not have to be made of textile fibers. Any plastic or manmade material would be considered a textile. This would be terribly inconsistent with what has been the position in the Tariff Schedules for years.

Finally, I would just like to comment very quickly on the Korean agreement. This has not been some ploy by my client or the Koreans to get around the agreement. My client began importing these plastic materials as plastics in 1981. The agreement was not negotiated until 1982. We have been importing cordage before, during, and after the negotiations of that agreement. We believe that clearly if the agreement was meant to limit the imports of this plastic material, it would have been addressed. And we believe that if H.R. 1624 is passed, there will be no choice but to reopen the negotiations and address this issue, because right now there would not be room in the quotas for the materials.

Thank you, Mr. Chairman. And we hope that the subcommittee will carefully consider our point of view as well.

[The prepared statement and additional information follow:]

STATEMENT OF THOMAS A. CONNAUGHTON, COUNSEL, FRANK W. WINNE & SON, INC.

SUMMARY

1. A Domestic Interested Party Petition has been filed with the Customs Service under 19 U.S.C. §1516 that addresses the alleged problems of the domestic cordage industry. Congress should not enact far-reaching legislation when administrative remedies are available to the proponents of this bill.

2. The plastic materials affected by H.R.1624 are bound items under GATT and if the bill is enacted compensation would be required to those nations which export the materials to the United States.

3. The legislation would adversely affect important segments of the U.S. economy, particularly agricultural and marine interests which consume the largest quantities of plastic tying materials. The cost of these materials will increase approximately 20 cents per pound if H.R.1624 is enacted.

4(a). H.R.1624 would reclassify tying materials made from plastics as textile cordage, thereby subjecting them to very high duties based on the argument that the plastic materials are used for the same purposes as textile cordage.

4(b). The reclassification of plastic tying materials as textiles would upset the distinction between textiles and plastics which runs throughout the textile sections of the Tariff Schedules of the United States. This distinction is based on objective, physical criteria. The "use" criteria which is embodied in H.R.1624 was specifically rejected over twenty years ago and has been rejected by most trading nations of the world.

5. If H.R.1624 is enacted, imports of these plastic materials from Korea would be prohibited under the strict quotas set out for textile cordage under the bilateral agreement signed December 1, 1982 with that country. Since this result could not have been contemplated at the time the treaty was negotiated, renegotiation would probably be required.

STATEMENT

Mr. Chairman, my name is Thomas Connaughton. I am counsel for Frank W. Winne and Son, Inc. Winne is a distributor of all types of imported and domestic binding materials, including rope, twine, wire and tape.

We are grateful for the opportunity to testify in opposition to H.R.1624. We believe that enactment of H.R.1624 would be unwise, and we respectfully urge the Subcommittee to reject this bill.

As we understand it, to support the need for H.R.1624, the domestic cordage industry has presented an argument that Congress unwittingly left a loophole in the textile provisions of the Tariff Schedules when it excluded certain plastic materials from the definitions of textile fibers. Congress never envisioned, the industry contends, that polypropylene strips over one inch in width might be used in a way which would compete with traditional textile materials. Therefore, the definition of cordage should be changed to include any products made from plastic materials which can be used in a similar manner as textile cordage.

Our research leads us to a very different conclusion. The debate regarding the classification of manmade fibers began with their introduction into commerce over a half-century ago. Domestic manufacturers have consistently pressed for tariff classification

which would include as textiles any materials which could be used for textile purposes. However, Congress and Federal agencies have rejected this subjective approach. Instead, an objective standard to divide plastics and textiles, based upon physical characteristics and dimensions, was established and refined after long and careful study. The one inch limitation on strips dates back to 1930 (see Appendix A), and despite suggestions from the domestic industry to substitute a subjective use standard, has remained in U.S. law as a reasonable dividing line between textiles and plastics. At the Tariff Commission hearings in 1958 concerning creation of the Tariff Schedules, the domestic industry argued strenuously that strips larger than one inch in width and monofilaments larger than 1/16 inch were being used for textile purposes and that the new schedules should establish a use standard or, at the very least, increase the sizes set out in the objective standards. Though recognizing fully that some manmade fibers classified as plastics would be used for textile purposes, the Tariff Commission rejected the subjective approach and its recommendations were enacted by Congress in 1962.

The attached excerpts from the Tariff Commission's Tariff Classification Study illustrate the classification difficulties which manmade fibers posed, and the views on how to overcome these problems. In the Explanatory Notes to Subpart E, Part 1, Schedule 3, of the Tariff Classification Study the Commission stated:

The problem of providing for man-made fibers is

> twofold: (1) they must be delineated in terms of the materials of which they are made, and (2) they must be described in terms of their physical form and dimension. This problem is unique with man-made fibers. Unlike natural textile fibers, the materials and physical form of man-made fibers, as their name implies, are completely within the control of man. The ability to control fiber size has given broader scope to the textiles concept and has opened up new uses for textile fibers for which natural textile fibers are unsuited.

5 Tariff Classification Study, Proposed Revised Tariff Schedules of the United States, 44 (1960), (hereinafter "Tariff Classification Study"), (emphasis supplied).

The Commission, in attempting to solve these problems, proposed specific objective definitions of manmade fibers for Schedule 3, and provided a special note to proposed Part 12 of Schedule 7 (plastics) which reads:

> Special Note for Part 12:
>
> Among other products, part 12 includes certain monofilaments and strips not covered by provisions of part 1E of schedule 3 and articles of such products not covered by the provisions for articles of "man-made

> fibers" in schedule 3 or elsewhere in schedule 7. At present, it is contemplated that the definition for "man-made fibers" set forth in part 1E as originally published will be modified in certain respects to insure that, to the extent feasible, its application will be confined to textile products. In line with this purpose, it is proposed, among other things, to restrict the coverage of the term, "man-made fibers", insofar as filaments are concerned, to filaments, regardless of cross-sectional configuration, whether singles or grouped, whether continuous or noncontinuous, which are not over 1/16 inch in maximum diameter, and insofar as strips are concerned, to strips, whether or not laminated, folded, or twisted, and whether continuous or noncontinuous, which in flat, unfolded condition are over 1/16 inch but not over 1 inch in width and not over 0.01 inch in thickness.

9 Tariff Classification Study at 569 (emphasis supplied).

These proposed dividing lines were discussed at length at the Tariff Commission's hearings and in written comments filed with the Commission. The Man-Made Fiber Producers Association, in testimony before the Commission, argued that a manmade fiber should be classified as a textile fiber "regardless of its dimension" and that the proposed dimensional limits on manmade fibers would result in the textiles being classifed as plastics. 5 Tariff Classification Study at 432, See Appendix B. The Association

wanted fiber material classified under the manmade fiber schedule without reference to the material's dimension, but noted that if dividing lines were to be drawn, the proposals of 1/16 inch and one inch for monofilaments and strips, respectively, were too small. Id.

Similarly, DuPont, while stating that "certain arbitrary delineations of measurements may be desirable" suggested that the proposed dimensional restrictions were too small. 5 Tariff Classification Study at 591, See Appendix C. Like the Association, DuPont was in favor of including as much manmade material as possible under Schedule 3.

The Commission's thinking on the issue is evident from the excerpts from the Tariff Classification Study attached as Appendix D. Mr. Russell Shewmaker, Assistant Legal Counsel, U.S. Tariff Commission, noted that a physical description of the material has an element of arbitrariness, but provides certainty and solves the problems a use provision would produce. Mr. Shewmaker indicated that the Commission has tried to limit the definition of manmade textile fibers to those which have the characteristics of traditional natural fibers, and stated, in response to the Association's comments, that the Commission's -

> ...effort is, one of giving substance to the term, [manmade fiber] a greater clarity, such as you get from a conception of physical dimension, and cannot get from one

where you are constantly confronted with chief use, or 'same other use' conception.

We are trying to get this into an objective schedule, that will not have these subsidiary problems.

5 Tariff Classification Study at 438, See Appendix D.

After receipt of testimony and written comments on its proposals, the Tariff Commission agreed to make certain changes, including distinguishing between monofilaments and strips and creating a separate provision for plexiform filaments. However, the Commission, and ultimately Congress, did not modify the dimensional dividing lines between manmade fibers and plastics.

Based on these materials, Mr. Chairman, we believe that the Tariff Commission and Congress had a full understanding of the issues involved in dividing textile fibers from plastics and chose an objective standard knowing the consequences. Moreover, as indicated by the BTN's means of distingusihing between plastics and textiles, most trading nations have approached this problem similarly. Thus, we do not view H.R.1624 as a bill to correct an unwitting technical error in the Tariff Schedules. Instead, it is a far-reaching substantive piece of legislation which would overturn 50 years of policy and set the U.S. apart from the rest of the world, by including plastics under the Tariff Schedules' provisions for textiles.

Mr. Chairman, it should also be noted that if H.R.1624 becomes law it will be necessary to renegotiate the bilateral agreement with Korea which was reached in 1982. Frank W. Winne has imported plastic tying material classified under TSUS item 774.55 since 1981. Accordingly, we believe that the quotas provided for in the bilateral agreement reached in December, 1982 would have addressed such materials directly if it had been the intent to curtail these imports. In this connection, we note that a white paper submitted by the Cordage Institute in connection with the negotiation of the U.S.-Korean bilateral agreement discusses only imports classified under the textile provisions of the TSUS. Further, the quotas on cordage set out in the agreement are consistent with the pattern of trade in textile cordage from Korea over the last several years. The quota limits do not include plastic materials and nothing in the agreement addresses such materials. Yet, if H.R.1624 was enacted, a substantial portion of trade in these plastics would be prohibited by the quotas negotiated under the bilateral agreement with Korea.

To conclude, we see significant consequences if this legislation is passed. The Tariff Schedules of the U.S. will be unnecessarily confused as textiles and plastics are intermingled despite 50 years of precedent to the contrary. There will be ramifications under GATT, and our bilateral agreement with Korea will be affected.

The legislation would also adversely affect important segments of the U.S. economy. If the legislation is enacted, farmers and maritime interests will be denied an alternative to textile cordage which enhances competition and lowers costs. This is a high price to placate a domestic industry, particularly since imports of the product, we believe, affect only slightly more than one percent of the U.S. cordage market.

Finally, the domestic industry has filed a Domestic Interested Party Petition with the Customs Service under 19 U.S.C. §1516 that, we understand, addresses the industry's alleged problem. It seems to us that Customs can more properly address the concerns of the industry. Far-reaching legislation is not the answer.

Thank you very much for the opportunity to present our views on this very important legislation. We hope that the Subcommittee will examine the bill carefully and come to the conclusion that it should not be enacted.

APPENDIX A

Comparative Print of H.R.2667 as Passed by the House and the Tariff Act of 1922, H.Doc., No. 23, 71st Congress, 1st Session, 91(1929)

ad valorem;] *garnetted or carded rayon, 10 cents per pound and 25 per centum ad valorem; sliver or tops, 10 cents per pound and 30 per centum ad valorem.*

PAR. 1303. [PAR. 1213. * * * yarns made from artificial silk waste, if singles, 25 cents per pound; if advanced beyond the condition of singles by grouping or twisting two or more yarns together, 30 cents per pound; * * * but none of the foregoing yarns. * * * shall pay a less rate of duty than 45 per centum ad valorem.] *Spun rayon yarn, 10 cents per pound, and, in addition, if singles, 45 per centum ad valorem, if plied, 50 per centum ad valorem.*

PAR. 1304. Rayon yarn put up for handwork, and rayon sewing thread, 55 per centum ad valorem, but not less than 45 cents per pound.

PAR. 1305. [PAR. 1213. * * * products of cellulose, not compounded, whether known as visca, cellophane, or by any other name, such as are ordinarily used in braiding or weaving and in imitation of silk, straw, or similar substances, 55 cents per pound; but none of the foregoing * * * products of cellulose shall pay a less rate of duty than 45 per centum ad valorem.] *Rayon in bands or strips not exceeding one inch in width, suitable for the manufacture of textiles, 40 per centum ad valorem, but not less than 45 cents per pound.*

PAR. 1306. [PAR. 1213. * * * fabrics * * * composed wholly or in chief value of any of the foregoing, 45 cents per pound and 60 per centum ad valorem.] *Woven fabrics in the piece, wholly or in chief value of rayon, not specially provided for, 45 cents per pound and 60 per centum ad valorem, and, in addition, if Jacquard-figured, 10 per centum ad valorem.*

PAR. 1307. [PAR. 1213. * * * fabrics and articles composed wholly or in chief value of any of the foregoing, 45 cents per pound and 60 per centum ad valorem.] *Pile fabrics (including pile ribbons), whether or not the pile covers the entire surface, wholly or in chief value of rayon, and all articles, finished or unfinished, made or cut from such pile fabrics, 45 cents per pound, and, in addition, if the pile is wholly cut or wholly uncut, 60 per centum ad valorem, if the pile is partly cut, 65 per centum ad valorem.*

PAR. 1308. [PAR. 1213. * * * ribbons, and other fabrics and articles composed wholly or in chief value of any of the foregoing, 45 cents per pound and 60 per centum ad valorem.] *Fabrics, with fast edges, not exceeding twelve inches in width, and articles made therefrom; tubings, garters, suspenders, braces, cords, tassels, and cords and tassels; all the foregoing wholly or in chief value of rayon or of rayon and india rubber, and not specially provided for, 45 cents per pound and 60 per centum ad valorem, and, in addition, if Jacquard-figured, 10 per centum ad valorem.*

APPENDIX B

Excerpts from the "Testimony of Mr. E.L. Stewart, Representing the Man-Made Fiber Producers Association", 5 Tariff Classification Study, 430 and "Statement of the Man-Made Fiber Producers Association to the U.S. Tariff Commission in Regard to Part 12 of Schedule 7 of the Proposed Revised and Consolidated Tariff Schedules", 9 Tariff Classification Study, 868.

When, therefore, you undertake to make a division between materials in the form of a fiber and you use in both divisions the terminology "mon-filament" and "fiber," you create confusion instead of resolving it.

But we have a more fundamental difficulty with your proposal. We feel strongly that any material in form worthy of being called a fiber, or subject to being called by the name "fiber," necessarily must have these properties of pliability, strength, and extreme length in relation to cross section, so that it can be used in textile operations.

If, therefore, you encounter a material called a fiber worthy of being considered a fiber, it deserves to be classified in the manmade fiber section of the textile schedule regardless of its dimension, regardless of the particular use that the importer who brings it in has in mind.

If your objective is really as you say, and I am sure that you are simply making an effort to accomplish this objective—if your intention is simply to reserve for the manmade fiber schedules textile articles, the criteria which you propose will not accomplish that.

A cross-sectional dimension of one-sixteenth of an inch in diameter will include many fibers deservedly called fiber, because of their suitability for textile use, which in fact are made and brought into this country for nontextile uses.

On the other hand, one-sixteenth of an inch will also allow material to get into the plastics schedule, which is suitable for textile use, and ought not to be considered as a plastic.

There are now monofilaments in dimensions that exceed a sixteenth of an inch, which have all of the characteristics of a fiber, pliability, tensile strength, suitability for use in textile operations, which are actually finding use in textile operations.

Thus, not only will the 1/16-inch dividing line, not exclude from the man-made fiber schedule specific applications which are nontextile, it would put into the plastic schedule basic materials which are textile in accordance with their characteristics.

I would like to show you some examples at this time. I am going to show you some continuous filament, 10 mills in diameter. That is less than one sixty-fourth of an inch thick. I am going to unreel a very long length of this.

I think that you can readily determine for yourself that this material which happens to be nylon is certainly pliable, has extreme length in relation to its width, and has the tensile strength which is characteristic of nylon.

Material, monofilament of this width, 10 mills, is used of course in making fabric. It happens to have a very important use in filter cloth for blood plasma. Nylon is especially good for this because it does not lint, it can be sterilized without affecting its dimensional stability or other properties. While this particular sample is 6 mills, it is also made in the 10-mill size that you have before you.

(Showing the sample of the 6-mill size.)

Mr. STEWART. Here is a type of fabric used for filter purposes (showing sample), which is made from 10-mill nylon monofilament. It is woven just like cloth.

Before I get into heavier applications, these of course are textile uses of 10-mill monofilament.

I have some interesting articles or samples to show to you of nontextile applications of monofilament in dimensions that are less than 10 mills.

I don't know what your esthetic judgment may be, but this wig was made up for use by actors and that sort of thing, and that is made from nylon monofilament 3 mills in thickness.

The perfume has nothing to do with the nylon.

Chairman BROSSARD. You are sure of that?

Commissioner SUTTON. I don't believe there is any perfume on this—there is a little.

Mr. STEWART. This fishing leader, which you gentlemen, I am sure, are well familiar with, is 6 mills in thickness. This obviously is a nontextile application of nylon.

Chairman BROSSARD. You better hold that in your hand, I would be tempted to keep it.

Mr. STEWART. I was going to open it, but lacking the characteristics of dexterity of a watchmaker, I can't even get it open. Anyway, there it is.

pliability and tensile strength which makes the fiber useful for such a purpose.

Several nontextile applications of fiber of this dimension—I illustrate here this form, 35 mills, is made for tennis racket strings, and that is a put up for tennis racket strings which we acquired [illustrating].

In a somewhat smaller dimension, this sample of 32-mill nylon fiber is used for badminton strings, but notice it is simply one particular application of fiber or filament that happens to be a nontextile application, but does not change the nature of the material.

This sample is a hank of nylon fiber 75 mills in dimension, which is above one-sixteenth of an inch, which is being used in that woven or braided hose application. In this particular length and form it is made up for use as the bristles in streetsweeping machines. However, it still—this happens to be nylon 610, the less pliable of the varieties of nylon, but notice the ease with which it is possible to knot this material, demonstrating its pliability.

There is being imported from Germany, nylon fiber 38 mills of the nylon 6 variety, the quite pliable variety, being sold also for these very heavy duty bristle users, but it is simply a particular length of a nylon fiber whose dimensions make it suitable for that nontextile use, but do not change its characteristics as fiber.

This is a sample of polyvinyladinechloride, or polyvinyladine, I suppose, if you have had any chemical training, which I haven't—fiber. This is about 145 mills wide, which is a little wider than one-eighth of an inch.

This material, as you see, is quite pliable. I will show you what it is used for.

It is used for a woven article, it is a seat covering. This is woven on a loom, out of this material. I exhibit a sample of woven material made from the fiber just exhibited, which is about 140 mills wide.

Commissioner SUTTON. Seat cover for automobiles?

Mr. STEWART. It could be used for that purpose. It is also used as seat covers in trains, streetcars, and things of that sort.

I have one other form of fiber to exhibit. This is a sample of a filament which is one-quarter of an inch wide. This is cellulose fiber with a cotton core. We may not agree that this is a textile application. The particular use of this is in mop heads, because of its high absorption qualities. The cellulose material as you can see is highly cellular or sponge-like, but it is a manmade monofilament one-quarter of an inch wide.

Now, the characteristics of that material have been tailored to a particular nontextile use. It is nevertheless possible to produce continuous length of a fiberous material a quarter of an inch wide.

In the case of the natural fibers, nature itself has imposed the limits upon the properties that can be achieved and to a great extent the uses to which the natural fibers can be put.

In the case of manmade fibers, however, variations of the physical properties, the form, and dimension, and pliability, the tensile strength, the other qualities that are important to fiber uses are fairly much within the control of man. It seems to have been this versatility of use and versatility in physical properties which has led the staff to the tentative conclusion that some dividing line is necessary.

We propose to submit a written brief within the time allowed. I see that my time has more than run out, so if you will give me just a few minutes I will bring this to a conclusion.

The long and short of our position, recognize fiber material for what it is, and allow all fiber, all filaments, to be classified—that is, manmade fiber and filaments—to be classified under the manmade fiber schedule.

Do not attempt an arbitrary dividing line, seeking a distinction between textile and nontextile which we believe is well demonstrated cannot be achieved no matter where you draw the line. Furthermore, if the technology of this industry shows anything, it shows that you cannot adopt criteria for the future solely on the basis of today's products. To draw the line at one-sixteenth of an inch would already be an obsolete undertaking.

However, if the Commission in its wisdom feels that a dimensional dividing line is necessary to insure that all manmade fibers and filaments, regardless of ultimate use in a particular case, be classified under the manmade fiber schedule, then we would not object. We think you have not met this objective in drawing the line at one-sixteenth of an inch.

tent, resiliency, pliability, spinnability, luster, extraneous physical properties, elongation, creep, durability, permeability, combustibility and electrical properties.

"Although most fibers are used in the manufacture of fabrics and clothing they have numerous other uses. For instance, the electrical industry employs fibers with high insulating qualities either inherent in the fibers or subsequently imparted to them. Other fibers find application in filling mattresses, pillows, and life preservers, where lightweight, resilience, and buoyancy are required. Fibers such as wool are used in felts, because they mat readily. Furthermore, it is possible to endow natural fibers with new properties or to create new manmade fibers, filaments, and yarns which will serve specific purposes. Some instances are high-tenacity rayon for cord tires, nylon for parachutes, and Bubbli-fil for life rafts and preservers."

It is apparent, therefore, that manmade fibers possess versatility in a double aspect. On the one hand, there is considerable versatility in the properties, dimensions, and forms in which manmade fibers can be produced; on the other hand, there is a versatility of use not enjoyed by the natural fibers.

VERSATILITY OF FIBER PROPERTIES AND USE PROMPTS UNSOUND CLASSIFICATION PROPOSAL

This dual versatility of manmade fibers seems to be leading the staff of the Commission to the tentative conclusion that some other criteria would be desirable for the identification of the materials to be covered by the manmade fiber section of the textile schedule than that which the traditional textile terminology itself would accomplish. Accordingly, they have proposed a cross-sectional dimensional limitation.

From the point of view of versatility of form, the staff seems to have reasoned that a single strand of manmade fiber material could be achieved in a cross-sectional dimension so great that it could not conceivably be regarded as a textile material. Since the constituent matter for such a single strand could be the same as that from which monofilament or cut fiber of conventional cross-sectional dimension would be prepared, the staff appears to have reasoned that some cross-sectional dimension must be found which would mark the dividing line between textile and nontextile forms of manmade fiber material.

But this reasoning overlooks or does not give sufficient weight to the fact that the basic textile terms themselves, filament and fiber, may only be applied to material which is, in accordance with all of its properties, capable of being spun or of being woven into fabric, knitted, or used in other basic textile operations. In other words, the content of the term "filament" or "fiber" does not include properties which make the material unacceptable for such uses.

ONE-SIXTEENTH INCH AN ARBITRARY AND ILLOGICAL DIVIDING LINE

It is difficult to draw a dividing line on the basis of any cross-sectional dimension which will have more than temporary value. The staff has selected one-sixteenth inch in diameter as the dividing line between monofilament (that is, a single strand of fiber capable of textile use) and plastic material, a selection which is admittedly arbitrary. There is some justification for proposing one-sixteenth inch because the preponderance of the literature, and indeed the references in our own statements, suggest that contemporary manmade fiber does not usually exceed that width. But if the curve of technology in new fiber development in this industry shows anything, it shows that adopting classification criteria on the basis of the characteristics of commercial fibers at any particular moment of time is quite an unrealistic approach. For example, monofilaments of manmade fiber which are one-eighth inch at their greatest cross-sectional dimension now move in commerce for textile applications. This is twice the diameter of the proposed limitation. When it is considered that the heavy special purpose fabrics are now produced for industrial uses as well as for use in automobiles, aircraft, offices, and homes, it is not difficult to visualize that even this ¼-inch diameter may be exceeded in the near future.

The various manmade fibers differ widely in their cross-sectional configuration. Very few of them are circular and some are extreme in their irregular cross-sectional configuration. A measurement at the maximum cross section of a fiber of irregular cross section can foreseeably yield a fiber which exceeds one-eighth inch at its greatest dimension and still be quite suitable for weaving into fabric, knitting, or other basic textile operations.

[illegible] would be a serious mistake for the Congress to adopt [illegible] limitation referred to in the special note for part 12. We [illegible] necessary for the Commission to explain in [illegible] dimensional limit into the definition of manmade fibers. It [illegible] however, been that it must take such an approach. We feel that the [illegible] dividing line should be set at one quarter inch in maximum [illegible] individual filament. So far as we know, this would adequately [illegible] present manmade fibers and leave some flexibility to provide for [illegible] of the future.

BANDS OR STRIPS—A DISSENTING VIEW

The problem of [illegible] as artificial straw. Continue treatment for the straw was provided in paragraph 1305 of the Tariff Act of 1930. Whereas the terms filament and fiber carried their own definitive connotation of a textile product, the term "bands or strips" did not necessarily identify the intended manmade as one suitable for textile use. Therefore, the Congress in providing for artificial straw in paragraph 1305 referred to "bands or strips not over 1 inch in width, suitable for the manufacture of textiles." The use of the phrase "suitable for the manufacture of textiles" was necessary to differentiate between ribbonlike material of cellophane or other which should be considered as textile and other ribbonlike embodiments of these materials for any of the multitude of applications which these products have received outside of the textile world.

In recent years bands or strips of manmade fiber material wider than 1 inch have been fabricated for textile applications and now move in commerce in the United States. In line with the Commission's apparent desire to provide for all textile materials of manmade fiber in the manmade fiber section of schedule 3, we believe it appropriate to extend the classification criteria for band or strip material to accommodate widths in excess of 1 inch. We therefore recommend that the reference to bands or strips in the definition of manmade fiber be amended to change the dimension of 1 inch to 3 inches.

We also have no objection if in the case of bands or strips the standard of thickness not to exceed 0.01 inch is retained for the phrase "suitable for the manufacture of textiles." The term "bands or strips" is not a basic textile term or a term of exclusive textile connotation. It would therefore simplify the classification of bands or strips of manmade fiber material to adopt a set of dimensional criteria for the identification of products to be included in the manmade fiber section of schedule 3. A dimensional standard expressed in terms of a maximum thickness of 0.01 inch and a width in excess of one-quarter inch but not in excess of 3 inches would serve well for this purpose.

DEFINITION OF MANMADE FIBERS SHOULD CONFORM TO PUBLIC LAW [illegible]

Because the special note for part 12 appearing in the Commission's proposed schedule 7 indicates that the definition for manmade fibers set forth in schedule 3 will be modified in several respects; and because the special note does not make it clear whether the modifications referred to would exceed the incorporation of the dimensional limitations which we have just discussed, we feel it imperative to express our views on that definition.

In the first place, the definition of manmade fibers as proposed in schedule 3 without dimensional limitations is consistent with the Tariff Act of 1930.

The fact that the Congress in 1930 felt it desirable to use the term "suitable for the manufacture of textiles" in the case of bands or strips and did not use it elsewhere in schedule 13 offers the strongest intrinsic evidence of the acceptance by the Congress of the terms "filament" and "fiber" as generic classification terms which were to cover all such forms of material without regard to whether the ultimate use of particular importations was in or out of the textile area.

This expression of intention was clearly renewed this year by the Congress in the enactment of Public Law 85-845 redefining the term "rayon or other synthetic textile" in schedule 13. The statute itself states that the term "means any fiber, filament, or fibrous structure, and any band or strip suitable for

APPENDIX C

Letter from F.X. Regan, of E.I. du Pont de Nemours & Co. to Mr. Russell Shewmaker of the U.S. Tariff Commission (1959), published in 5 Tariff Classification Study, 591.

E. I. du Pont de Nemours & Co.,
Wilmington, Del., December 15, 1959.

Mr. Russell Shewmaker,
U.S. Tariff Commission,
Washington, D.C.

Revised Tariff Classification—Schedule 3

Dear Mr. Shewmaker: In accordance with your request and our several conversations, relative to the problems encountered in the proposed schedule 3, we have reviewed the matter with our technical and sales staff, and after careful consideration have agreed upon the following conclusions and recommendations:

The rapid development of the plastics industry since the enactment of the 1930 Tariff Act has given rise to a multitude of problems in customs classification and evaluation of fibers and related products such as are contemplated by the proposed schedule 3. As a matter of fact, it has also resulted in numerous problems and litigation in most of the other tariff schedules. It does not appear humanly possible to anticipate and provide for every possible contingency. It is possible, however, to examine and estimate possible or probable new developments which are likely to be commercial items within the next 10 years.

Manmade fibers and related products originate from materials developed by the chemical industry, and in many cases are of the same chemical composition (though they have quite different physical properties in fiber form) as plastic materials offered by the chemical industry. Plastic materials differ chemically and have different properties which may make one more desirable than another for different types of uses. However, when it comes to the production of plastic materials, the same equipment produces polymer intended for use in a variety of ways. When the polymeric material is then further processed by being melted and extruded through a spinnerette, fibers (filaments) are produced. In some fiber forms these materials may have uses which are textile or nontextile, and for the most part they actually overlap in use.

The revised language of the proposed chemical schedule 4 will go far toward eliminating the difficulties of classification in most forms of plastic materials as such. However, schedule 4 is not intended and cannot be construed to cover fiber forms which because of their fibrous nature should be encompassed within the scope of proposed schedule 3.

We believe that most of the difficulties can be overcome by providing new definitive language which would make it clear that schedule 3, subpart E, is not limited in application to materials for textile use only. We believe that manmade filaments and fibers, together with bands or strips in certain dimensions, can and logically should be given the same customs treatment regardless of use. To do this, certain arbitrary delineations of measurements may be desirable. Accordingly, we suggest:

1. That the schedule titles be amended to read "Textile Fibers and Related Products;"

2. That definitions and specifications be provided for "manmade fibers," monofilaments, bands and strips, discontinuous filaments and waste;

3. That all references to suitability for use or limitations to chief use be eliminated from schedule E.

As you know from our discussions, these recommendations are being submitted to take care of problems which have been called to our attention by yourself and by our polychemicals and film department subsequent to the hearings on proposed schedule 3. As noted in our several conversations, you desired suggestions and assistance concerning dimensional specifications for possible use in conjunction with the terms "filaments," "fibers" and "bands or strips." Except for the more detailed specifications which we are submitting in response to your request, it is felt that the very able and comprehensive recommendations made on behalf of its industry by the Man-Made Fiber Producers Association should receive the favorable consideration of the Tariff Commission. Accordingly, we recommend that the framework suggested by that association be adopted, and we also endorse its position on the subject of duties. The attached schedule is consistent with the recommendations of the Man-Made Fiber Producers Association and incorporates our further suggestions regarding dimensional limitations.

You will note that we suggest expanded scope of the items covering bands and strips, denier, and width. At first glance, it may seem that the proposed limits are excessive, but, in accordance with your request, we have tried to look to

the foreseeable future and anticipate expected and probable new commercial applications.

With respect to bands and strips, we suggest a 3-inch upper limit, with a limitation on thickness of 10 mils. This suggestion is based on the current and foreseeable applications involving the bands and strips in both the textile and nontextile industry. For example, in the textile field, films are commonly split to the width of approximately 2 inches prior to final slitting yarn width. Initial slits up to 3 inches are already practical and are furnished to customers on request. In applications such as upholstery supports and as substitutes for buckram as a stiffening in curtains and draperies, film widths considerably in excess of 1 inch are required. Films of carrying widths are used as a replacement for holland cloth in curtain tapes and in stationery applications. These may be more or less than the 1-inch limit currently being used. Other applications calling for material up to 3-inch width are electrical cable wrappings, capacitor dielectrics, sling liners in motors and generators, magnetic tapes and pressure sensitive tapes. (See examples delivered separately.)

Although manmade filaments and fibers may have originally been developed to replace their natural counterparts for textiles, modern technology has expanded their sphere of usefulness to include bristling materials for brushes, fibers for paper, belting, and many other applications totally unrelated to textiles. For example:

Filaments as large as 0.075-inch are currently being considered as reinforcement for small braided gasoline hose. Within the next few years it is feasible that filaments one-fourth-inch or greater in diameter will be required for this purpose, especially if used in larger hoses. We can readily visualize the use of such filament in flexible hose as large as one-eighth-inch diameter. Such a hose would be very useful in such applications as refueling lines for ships, aircraft, etc., where a high-strength, lightweight, nonmetallic support is important.

Large monofilament, either round, oval, or flat, is being considered as webbing for outdoor furniture. As styles change it is quite possible that filament as large as one-fourth-inch diameter or more will become common for this application, replacing or supplementing the smaller woven textiles now used. The use of large-diameter monofilament as reinforcement for large conveyor belts is under consideration. This, too, would be competitive for heavy woven textiles now being used. Under the circumstances, applications using up to one-fourth-inch may be anticipated to both textile and nontextile fields.

As now visualized, many of these uses would compete directly with currently used textile products.

Nylon filaments as large as 0.035-inch diameter, produced in Germany, are currently being offered in this country. While this material is predominantly intended for use in mechanical streetsweeps, it would probably be suitable for at least some of the above-mentioned applications. Filaments as large as 0.075-inch diameter are being used to convey animal hides through the various processing steps in the manufacture of leather. There is no reason why imported filament could not be used in this application also.

An interdigituting clothes fastener made from heavy coiled nylon monofilament is in the early stages of commercial development in this country. A similar fastener is already being produced in Germany and efforts have made by the Germans to sell the coiled filament in this country. (See sample delivery previously.)

Please accept our thanks for the time and courtesy extended to us by yourself and members of the staff, and if we can be of further assistance, please do not hesitate to call on us.

Respectfully submitted.

By F. X. Regan, *Development Department.*

STATEMENT TO THE U.S. TARIFF COMMISSION ON "PROPOSED REVISED AND CONSOLIDATED TARIFF SCHEDULES. SCHEDULE 3. TEXTILE FIBERS AND TEXTILE PRODUCTS," BY THE ASSOCIATION OF COTTON TEXTILE MERCHANTS OF NEW YORK, NEW YORK, N.Y.

The Association of Cotton Textile Merchants of New York is composed of member firms which are sales divisions or sales agencies of cotton and other textile mills located throughout the country. Through them are marketed most

APPENDIX D

Comments of Mr. Russell Shewmaker of the U.S. Tariff Commission and Mr. E.L. Stewart representing the Man-Made Fiber Producers Association on the definition of man-made fibers, 5 Tariff Classification Study, 400, 436-438.

Shewmaker (con.): I wondered if you have any proposals relating to physical size or description that would help to distinguish the products of this schedule from, say, the plastic provisions?

Mr. STEWART. We have not adopted a recommendation which would distinguish, for example, on monofilaments on the basis of size. We do, however, recognize that the experienced customs examiner, which we fortunately have in New York, would recognize that certain monofilament diameters were obviously not for textile use. We have not taken a position as to whether or not nontextile adaptations of manmade fibers may be classified promptly other than under schedule 19. Our main interest is that by all odds, textile applications of manmade fibers go under schedule 19 so that if it were determined on the basis of experience, experience of the examiner, that a monofilament of a given diameter was not for a textile application, but was for use as bristles of brushes, and therefore should be classified under the plastics provision, we would have no objection to that.

If it is possible to draw language that distinguishes on the basis of monofilament diameter that would not allow textile-sized monofilaments to be treated as other than textiles, we would have no objection to that. We would be happy to discuss such a limitation with you in response to your earlier invitation. We are available to you at your convenience to spend as much time as may be necessary in ironing out these problems.

I'll say this. We have a sample card which illustrates nontextile uses of monofilament and of something which you call either an artificial horsehair or a monofilament. One is bristles, and the other is nylon monofilament fishing line. Now, we submit that it is impossible to distinguish on the dimension of the monofilament itself in this form that is put up as fishing lines between a textile use and a nontextile use, unless it is cut to length when it comes in and you know that it is fishing lines. We think that it would be most unsound to adopt any provision that would allow nylon monofilament to be classified elsewhere than under the provision for monofilaments of manmade fibers, because it is possible to have some uses which are nontextile uses.

Mr. SHEWMAKER. Do you think that it is feasible to make this separation short of some physical description which, though it may have an element of arbitrariness about it, at least it is certain and, if it is properly drawn, would correctly separate imports in maybe 95 percent of the cases?

Mr. STEWART. I think you could get a dimension which, by and large, would exclude items which were not for textile application. We would not object to such a provision.

Mr. SHEWMAKER. We may be overplaying the complexity of the use provision, but I think we all feel, and I know Mr. Fineman here feels that there is a definite problem in determining uses when you are dealing with the many actual sizes and potential sizes of these manmade fibers.

Mr. STEWART. We agree with you, Mr. Shewmaker. We think that an approach based on use would be difficult to administer, would bring uncertain results, and would lead to general dissatisfaction, both to domestic producers and to importers. While importers would like to have what they regard as the proper and low rate, they also would like to have certainty. They are in sympathy with the objective of this study in the attempt to achieve certainty. So are we. The battleground is, what duty rate we are going to decide or pitch certainty on. We will agree to a dimensional limitation on monofils, provided it is one that does not run the substantial risk of excluding what we know to be general applications of textile monofils. We say that even though the duty may be higher elsewhere at the present time, the levels of a duty under our present rate techniques are a temporary, accidental, gratuitous thing, and it would be difficult for anybody to base their recommendations on what the existing rate of duty is.

Mr. SHEWMAKER. You apparently assume in your presentation that this new fiber K that you have produced is a monofilament. The samples that you submitted to us some time ago indicate that the product now made has a total denier of 300 with 16 individual monofilaments, with no twist. As a matter of fact, on a fracture of this by breaking it, it does, as you pointed out, break into its individual filaments, and if you were desirous, you could completely separate fiber K into its 16 smaller size filaments.

Mr. STEWART. You would not get 16 usable filaments.

Mr. SHEWMAKER. Whether you would get 16 usable filaments, at least it retains its fibrous character. I am wondering, would you agree that there is some

Just a final word in regard to the definition of manmade fiber, itself. In the special note to part 12 of schedule 7, there is some indication that other modifications of the definition of manmade fiber which you proposed in schedule 3 may be entertained by you. I am sure that it is a familiar fact to you that after your hearings on schedule 3 members of each House of Congress sponsored legislation to amend the definition of rayon or other synthetic textiles in schedule 13. You also know, I am sure, that the Members of Congress had the benefit of your staff and the staff of the Bureau of Customs from the technical point of view, for the soundness of the legislative definition.

While the Commission called the attention of the congressional committee to certain factors that the committee might wish to consider as indicating that legislation was not now appropriate, the fact remains that the Congress enacted into law in August of this year a definition of rayon or other synthetic textile, and the legislative history makes it quite clear that Congress, concerned with the welfare of this industry, wanted to be sure that there would be no further complexities in the classification of the various kinds of manmade fiber. The Congress referred not only to the many new families of fibers that are under development, but also to the fact that there were nontextile uses of these fibers, some of which had been held to find classification outside of schedule 13.

Under these circumstances, where the Congress with all of that information before it, knowing that you were engaged in a study of the reclassification of the whole tariff schedules, undertakes itself to legislate into law a comprehensive definition of manmade fibers, which is what its definition of rayon or other synthetic textile is, we submit the Commission itself should pattern its definition after the action of the Congress.

We therefore request that the Commission, in formulating its own definition of manmade fiber, pattern it entirely upon the definition enacted into law this year by the Congress.

There is one possible exception to which we would acquiesce, although we do not ourselves advocate it. This is in the case of bands or strips. While on the one hand the words fiber and filament are concededly words of rich textile connotations which come down to us over many, many years, bands or strips is an artificial phrase which was coined at the time of the Tariff Act of 1930 to pick up artificial straw. Congress didn't qualify the terms fiber or filament in the rayon or synthetics textile schedule, but when it came to bands or strips it said bands or strips not over 1 inch wide, suitable for the manufacture of textiles.

If you in your wisdom feel it would be desirable to eliminate that subjective phrase, suitable for the manufacture of textiles, in conjunction with bands or strips, we would have no objection. We feel that if you undertake to do so you may wish to recognize that band or strip material for textile uses is now moving in commerce in widths which exceed 1 inch. Otherwise, we have no objection to your criteria of a thickness of 10 mills or one one-hundredth of an inch.

If we disagree with you, with emphasis, it is not because we feel that your conclusions are the result of superficial thinking. To the contrary, it is because we know of the careful study that you have made and your capacity for enthusiasm for your conclusions so patiently arrived at, that we ourselves put to you with all our strength the request that you reconsider any modification, any basic deviation from the definition of manmade fibers enacted into law by the Congress, and that you be most careful in engrafting any dimensional limitation on that definition.

Thank you very much.

Chairman Brossard. Any questions? Mr. Shewmaker?

Mr. Shewmaker. This area of making a dividing point between textiles and nontextiles is a very troublesome one. I am afraid that I don't completely agree that the word "filament" is rich and pregnant in meaning, textilewise. We have not found it so. We have found quite a diversity of opinion concerning the concept of "filament" in a textile sense getting into these very—I say very—it is a relative term, very large diameter, rigid, or relatively rigid and stiff manmade products.

As a matter of fact, some of the uses that I saw here demonstrated in the samples, even of the very small diameter filaments, were more as a reinforcing medium. They themselves were not woven, but they were woven around. You can literally pull them from it, and the very soft smaller filaments were those things that were actually made into yarns and woven to make the fabric.

The problem was wrestled with by those who formulated the definitions in the Brussels Nomenclature. Their point of division between manmade fibers and plastics products—and any point of division does have certain elements of arbitrariness, that is conceded—is 1 millimeter.

Our proposed one-sixteenth of an inch, which you are correct in assuming would apply, in the case of grouped filaments, to the individual filaments and not to the group as a whole, is 1½ times—the one-sixteenth inch is 1½ times 1 millimeter.

I have no doubt that a quarter of an inch, as you propose it, would catch all textile filaments. From the data we have assembled, however, even if you take a broad view of a textile, and particularly if you reason from the natural fiber counterpart that man was imitating, we think, 95 percent of the cases, if not 99 percent, would be embraced within the one-sixteenth inch.

The difficulty that we have experienced comes from the fact that, when you are dealing with natural fibers, the basic construction unit has always been small individual separated fibers which are capable of being spun into yarn.

The customs courts have been unwilling in some instances to think of that little fiber as a filament. That is the reason they held that the provisions of paragraph 1529(a) did not cover a horsehair rug that was a felted product that had been embroidered. In that case, the individual fibers had not been spun into a yarn and they were held not to be filaments.

In general, their concept of a filament has been that it is a fine threadlike affair.

In the natural fiber field, vegetable fibers which have not been separated, have been treated elsewhere in the schedules for tariff purposes, and never as a textile. They are basketry and related products, made or woven from rattan, cane, reed, bamboo, raffia, chip, and so forth. If you were going to draw a distinct parallel between natural and manmade products, a product such as this one (pointing to exhibit) would be more nearly in line with the cane bottom chair type of thing, and would not be typically characteristic of the traditional textile made of natural fibers.

If I understand correctly, one of the characteristics that you find in the traditional textile is that it can be worked back on itself. In other words, when you come to the end of the weft you can reverse direction and work the yarn back and forth. Also, you can knit it. As to most of these manmade products you are demonstrating, you may be able to tie them into knots with a little exertion, but I don't know how suitable they would be in typical textile machines for weaving, knitting, and other typical textile operations, although quite obviously they can be used to reinforce fabrics and other textile products, as they have been in some of these products that you have submitted.

I only make this statement to elaborate a bit on the thinking that is implicit in this special note that we issued not as legal language, but as informative matter to give notice of some of the thinking that had been going on. Inasmuch as we were treating in part 15 with provisions for plastic products which are complements to the provisions for manmade textile products, we wanted to take this opportunity to expose for possible consideration in the public hearing the thinking that we have had up to this point on the establishment of a reasonable line of demarcation that would give greater certainty to the provisions for manmade fibers in the textile sense, and to those covering the very closely related filaments that would be over with the rods and filaments that are quite outside of the dimensions of the usual textile product.

I don't have any questions.

Mr. STEWART. I would like to make just three very brief responses to what you said, Mr. Shewmaker, and your remarks are very helpful. First, there was no command in the Customs Simplification Act of 1954 that you use as a classification criterion textile and nontextile in any sense. The command that is there is, the classification system you do achieve provide for a logical division of products.

Here we have the products of a new industry, manmade fiber-producing industry and to distinguish between some and others on the basis of textile and nontextile, I think can be seen from what I have demonstrated today, would not be logical, definite, or certain, and when the Congress, itself, legislated on this matter in August of this year, it was aware that there were nontextile applications. Its concern was that the new families of products of the manmade fibers be treated under schedule 13, which they regarded as a generic classification place for any fiber or filament, manmade.

We would hope that you would feel that a classification where you put all manmade fibers and filaments into one section for classification purposes would answer the mandate Congress laid upon you to achieve a logical division, using logical terminology with particular classification results.

Mr. SHEWMAKER. It is my understanding this term "manmade fibers" is a development of recent years as a term, to replace the earlier language such as that found in the Tariff Act, "rayon or other synthetic textiles."

I don't get the impression that anyone in coining the term or using it was trying to develop a connotation beyond "textile." It is used in some instances to get away from the term "synthetic." In general, producers don't like to employ that term in their promotion schemes. I never have gained the impression from any of the literature I have read or from any of the discussions I have had with textile people that the term was developed in an enlarging sense.

It is a replacement for a textile term, and is in itself a textile concept, not one that would reach out and embrace all nylon rods, or all manmade rods up to a quarter of an inch.

Mr. STEWART. We are not quarreling about where you put rods. We say when you call something fiber or filament, it has no necessary metes and bounds so far as dimension is concerned; that it is a product of this industry whose characteristics make it suitable for a textile use. It doesn't have to be on the basis of weaving.

Once you recognize something as a fiber, it should go under the manmade fiber schedule regardless of the particular use for which it is made.

As you know, current customs practice is to put nylon bristles under schedule 13, and that was reaffirmed just the other day by the Bureau of Customs in a Treasury decision, without regard to the dimensions of the bristle material, referring to it as "bristle material," which is a recognition that it is nontextile.

Mr. SHEWMAKER. Well, I think you yourself pointed out, and, of course, we were quite aware of the fact, that nylon has numerous applications, including in the case of some soft baby brushes, some very fine filament material, that obviously if it were in longer lengths could be woven.

We are not disputing there are these bristle uses, these other uses of the monofilament. The fact remains, though, that the term "fiber" itself, like "filament," is generally thought of in terms of small dimension.

The Webster's Collegiate Dictionary here says, "A thread or threadlike structure or object. * * * Collectively, any tough substance composed of threadlike tissue, especially when capable of being spun and woven."

Traditionally in the textile sense, it has revolved around a very fine type of filament, nothing that approaches the dimensions that we are now capable of getting in the manmade field.

It was our effort to use this term "manmade fiber," which is used right straight through our textile schedule in dealing with many, many textile products, as a textile term.

It was for that reason we felt that, as with the natural fibers, so with the manmade fibers, when you are looking at a particular product, you find in it a basic construction unit that will permit you to say: this is a manmade textile product. That is essentially what our effort is, one of giving substance to the term, a greater clarity, such as you get from a conception of physical dimension, and cannot get from one where you are constantly confronted with chief use, or "some other use" conception.

We are trying to get this into an objective schedule, that will not have these subsidiary problems.

So that is all I have to say on that particular part.

Mr. STEWART. Our position will be developed further in our brief, Mr. Chairman.

Chairman BROSSARD. All right.

Mr. STEWART. Thank you for your patience. I always seem to be prolonging the end of the day at these hearings.

Chairman BROSSARD. Thank you. You always present a clear case. Is there anybody else to be heard today?

Secretary BENT. As far as I know, that completes the schedule of witnesses.

Chairman BROSSARD. Are there any other witnesses to be heard?

(No response.)

Chairman BROSSARD. Is there any other business to be brought before this hearing?

Chairman GIBBONS. Thank you. We will try to unravel this. [Laughter.]

Forgive me.

Mr. Frenzel.

Mr. FRENZEL. Do you want to expand a little bit on your closing statement about whether there is some unanticipated loophole or whether it is something that you believe was negotiated, and your reasons for so believing?

Mr. CONNAUGHTON. Mr. Frenzel, I was not—I have not talked to Ambassador Murphy and was not involved in this issue at that time at all. I do not know exactly what the parties discussed and what the Cordage Institute discussed with them. However, I do know that these materials were coming into the country at that time classified as plastics. Indeed, Mr. O'Dell testified that as early as June 1982 they were aware that the materials were coming in as plastics. This agreement was concluded in December 1982.

It is beyond me how one can say that the agreement was meant to bar these plastics when those plastics were coming in separately.

Mr. FRENZEL. Are you importing the plastics?

Mr. CONNAUGHTON. Yes, sir. My client is.

Mr. FRENZEL. How long have you been doing that under that classification?

Mr. CONNAUGHTON. Since 1981.

Mr. FRENZEL. So it was not a surprise at the end of 1982?

Mr. CONNAUGHTON. No, sir. It had been going on.

Mr. FRENZEL. This display here which has 12½ cents per pound plus 15 percent ad valorem, what does that total to ad valorem?

Mr. CONNAUGHTON. I would have to look it up. It is very high, Mr. Chairman.

Mr. FRENZEL. It would seem to have an extraordinarily high tariff. Of course, the United States does have the highest tariffs in the world on textiles.

Mr. CONNAUGHTON. It is 8 cents per pound, 12.7 percent ad valorem, and then 12.5 cents per pound and 15 percent ad valorem.

Mr. FRENZEL. What does that total to? Can you tell me the percentage ad valorem that these pound charges are equivalent to?

Mr. CONNAUGHTON. It is roughly about 30 percent, 25 to 30 percent. These are items well under a dollar, and it is roughly 20 cents a pound, somewhere between the 25 and 30 percent, and it would vary from item to item.

Mr. FRENZEL. Thank you very much.

I yield my time, Mr. Chairman.

Chairman GIBBONS. All right. Thank you very much.

Mr. CONNAUGHTON. Thank you, Mr. Chairman.

Chairman GIBBONS. Let me see the hands of all those people in the room that are not Washington based. How many people do we have here that are not Washington based?

[A show of hands.]

Chairman GIBBONS. OK. Let us proceed. Next let us go to toys, H.R. 2270, toys for pets.

STATEMENT OF JEFFREY A. MEEKS, COUNSEL, VO TOYS, INC.

Mr. MEEKS. Mr. Chairman, my name is Jeffrey Meeks, and I am here today representing VO Toys in support of H.R. 2270, a bill introduced to provide a more uniform treatment for pet toys of textile materials. I will try not to take much of your time today.

VO Toys is a domestic manufacturer of toys and accessories located in New York State. They market a complete line of pet toys, most of which are made domestically, but some of which are imported due to their low cost and high labor content.

The articles that are in question are generally small toys used by cats and other small pets, made of textile scraps and filled with textiles or other like components. The product became so labor intensive that it was moved offshore several years ago, and I believe that there is no domestic production of these or any like articles remaining in the United States today.

The current bill hopes to alleviate some of the distinctions that the tariff inadvertently created in the classification of pet toys. Presently, pet toys of rubber or plastic are specifically provided for in schedule 7 of the Tariff Schedules. However, if it is a pet toy made of textile materials, it can be subjected to one of 25 different tariff rates and TSUS item numbers based upon the type of textile material that is used, the way that the textile is constructed and whether or not the article would be considered ornamented, a distinction that is usually reserved for wearing apparel and other textile articles, but because these goods are classified in the textile provisions, must also be applied to the pet toys if they are found to be classified in schedule 3.

Each of the distinctions between these classifications is minute when applied to pet toys. It may have been important when Congress enacted the textile provisions relating to fabric and other wearing apparel articles, but applied to pet toys it makes no sense and results in an exorbitant waste of Customs' time, the importer's time, wide swings in duty, and the resultant cost to the taxpayer and the consumer.

Chairman GIBBONS. Thank you very much. We will put your entire statement in the record.

[The prepared statement follows:]

STATEMENT OF JEFFREY A. MEEKS, ESQ., MANDEL & GRUNFELD, ON BEHALF OF VO TOYS, INC.

SUMMARY OF COMMENTS

1. The current classification system for pet toys is overly complex, resulting in a great waste of time and effort, without reason.

2. Simplifying this situation should benefit all parties concerned, taxpayers, consumers, and the government.

3. There appears to be no domestic production of like or similar articles in the United States.

4. Passage of H.R. 2270 would result in a more uniform classification system with little disruption to the existing Tariff Schedules of the United States.

Mr. Chairman and Members of the Subcommittee: My name is Jeffrey Meeks and I am here today as counsel, representing VO Toys, Inc., in support of H.R. 2270, a bill providing for uniform treatment of pet toys of textile materials. VO Toys is a domestic manufacturer of pet toys and accessories located at 321 Rider Avenue, Bronx, New York 10451. They market a complete line of pet toys and accessories, some of which are made in their plant in New York, some of which are manufactured by other U.S. companies and some are imported.

The pet toys industry in the United States, of which VO Toys has been a part for nearly 50 years, has found it impossible in recent years to make the type of labor-intensive, small cloth pet toys which are the subject of this legislation. The articles in question are generally used by cats or other small pets and are in the shape of mice or other figures, usually 2 inches to 3 inches in length. They are generally made of textile scraps with features either pasted or sewn on and they are stuffed with filler, textile scraps, catnip or the like. Since these articles must be sewn by hand and are relatively inexpensive, the manufacture of this portion of VO Toys' product-line was moved offshore several years ago. We do not believe there is any domestic production of these or like articles remaining in the United States today.

VO Toys regularly employs approximately 50 people in their plant in the Bronx and this number swells to nearly 100 persons between September and December each year, many of whom package the toys in question in Christmas stockings along with VO's domestically-made products. These imported articles are felt to be a necessary part of VO Toys' overall line.

STATEMENT OF PURPOSE

The current bill, H.R. 2270, has been introduced to alleviate several problems which have been encountered repeatedly since VO started to import this merchandise and which are also faced by other domestic pet toy concerns.

The problems all stem from the current classification of textile pet toys pursuant to the Tariff Schedules of the United States (TSUS), and this bill attempts to make the classification of these articles more uniform.

It is also expected that the bill, as drafted, will simplify the task of the U.S. Customs Service in classifying this merchandise and result in savings to the taxpayers as well as the consumer.

PRESENT CLASSIFICATION SYSTEM

While pet toys of rubber or plastic are specifically provided for in the TSUS under TSUS item 773.05, similar articles in chief value of textile materials are classified in any one of approximately 25 different TSUS items, depending upon the type of textile material used, the method of construction, the component fiber of chief value, and whether or not such article might be considered ornamented by the Customs Service.

Each of these distinctions is minute and such distinctions were never intended for the classification of pet toys. However, these distinctions exist and can result in an exorbitant expenditure of time, by both Customs and the importer, and a resultant cost to the taxpayer and consumer. Such insignificant distinctions can also result in wide swings in the duty rate and possibly even the necessity to obtain a textile visa from the exporting government. This all seems unfathomable for articles which, when placed side by side, appear identical or nearly so.

However, in order to classify these articles presently, Customs first must determine which component textile fiber of the article is in chief value. After requesting a component fiber breakdown from the importer, Customs must also determine the method of construction of the article, i.e., knit, woven, non-woven felt, etc. Finally, Customs must attempt to determine whether the toy is an ornamental article or an unornamented article, a test normally applied to wearing apparel and clearly inappropriate for a pet toy.

When one considers that this entire process must be repeated after each different toy in the shipment and separately for each shipment (since the articles change some from shipment to shipment), it becomes clear that this is an overly complex classification scheme without any justification for such complexity.

The drafters of these current provisions treated each textile fabric differently, to deal with the needs of separate domestic industries. This is understandable, but makes little sense when applied to pet toys. An example of how absurd the detail required can be is seen from the language of a recent Customs Service Protest Review Decision, P.R.D. 75–15:

"This office has consistently ruled that an article is not ornamented for tariff purposes by reason of ornamental features applied to that article if those features are necessary to the existence of the article. With reference to the duck-like animal and the mouse, the eyes, cap, bill, nostrils, neck, feet, ears, and tail create those articles. In this regard, whether or not a doll or plaything reasonably resembles any known animal is not the governing criterion. Nor is the fact that the doll or plaything is intended for use by an animal that may or may not be capable of understanding or recognizing the features of that doll or plaything. What must be determined is whether the features on the doll or plaything are used to create that article or

merely to decorate it. In this instance, all the features on the duck-like doll and the mouse create the articles. Accordingly, those features do not constitute ornamentation for tariff purposes and, therefore, the articles are not classifiable in item 386.04, TSUS."

Whether nostrils are necessary to create a duck or merely to ornament it can hardly be seen as crucial to the domestic textile industry. H.R. 2270 would place all textile toys for pets under one tariff item, whatever the textile fiber, the method of construction, and whether ornamented or not.

BENEFITS OF LEGISLATION

It is hoped that passage of H.R. 2270 would benefit the Customs Service by greatly simplifying the tedious classification system which now applies to textile pet toys. This time-saving change should result in a savings to the taxpayer which should more than offset any loss of duty which would result from its passage. It is also expected that the consumer will benefit. As the domestic distributor is able to more accurately price his merchandise without needing to allow large margins for subsequent duty increases, prices should relate more directly to costs of manufacture.

More accurate statistical information will also become available to the domestic industry as well as the government through the creation of this more specific provision.

Finally, no domestic concern should be injured by this legislation and several should benefit directly.

CONCLUSION

H.R. 2270 is an effort to simplify the classification of an article too inexpensive to produce in the United States. The government, the taxpayer and the consumer all stand to benefit from the passage of this legislation and no party appears likely to be adversely affected. For the foregoing reasons, we urge passage of H.R. 2270.

Chairman GIBBONS. Mr. Frenzel.

Mr. FRENZEL. What is this? Is this something Rover plays he passage of this legislation and no party appears likely to be adversely affected. For the foregoing reasons, we urge passage of H.R. 2270.

Chairman GIBBONS. Mr. Frenzel.

Mr. FRENZEL. What is this? Is this something Rover plays with?

Mr. MEEKS. Yes, sir. A toy for pets as opposed to children and adults.

Mr. FRENZEL. How much money are we talking about in this request?

Mr. MEEKS. The overall impact on the U.S. industry?

Mr. FRENZEL. Yes.

Mr. MEEKS. I can only speak for VO Toys. In his instance he is talking about approximately $15,000 to $20,000 annually in duties that he pays under the textile rates, and also a great deal of headache between him and the various Customs officials trying to decide where this pet toy is classified. It is not a matter of controversy. It is just a matter of trying to find out the right place to put it.

Mr. FRENZEL. Thank you very much.

Mr. Chairman, I yield the balance of my time.

Chairman GIBBONS. Thank you very much.

Our next witness is Mrs. Holt, and we will put Mrs. Holt's statement in the record. [See p. 603.]

Mr. de Lugo.

STATEMENT OF HON. RON de LUGO, A DELEGATE IN CONGRESS FROM THE VIRGIN ISLANDS

Mr. DE LUGO. Mr. Chairman, I know you have a lot of legislation before you this morning. I would just like to ask that my statement be submitted and made a part of the record.

Chairman GIBBONS. We would be happy to do that.

Mr. DE LUGO. I am going to be very brief.

As far as I know, the legislation that is before the committee, my bill, I do not know of any opposition to it. It will save the Government money. It will relieve a lot of paperwork on U.S. citizens that operate charter boats between the U.S. Virgin Islands and the British Virgin Islands.

You see in the little map on the brochure that I gave you the British Virgin Island and the U.S. Virgin Islands geographically are one. At the closest point it is less than a few hundred yards. And yet the charter boats—and there are many of them in the United States Virgin Islands—if they go out for a day, they have to check out. They have to fill out four forms as though they were a supertanker, and when they come back in the afternoon, they have got to go through customs again and fill out all of these forms.

This procedure is cumbersome, and it costs the taxpayers money. And this bill would only apply to the U.S. Virgin Islands and the British Virgin Islands.

And on weekends when the charter boats go out, Customs is closed and they have to pay for overtime, and no one that I know of sees any real reason for this.

As I said, it is not controversial, and I would like to ask for the usual sympathetic consideration of my good friends on the Committee on Trade. And I would be glad to answer any questions.

[The prepared statement follows:]

STATEMENT OF HON. RON DE LUGO, A DELEGATE IN CONGRESS FROM THE VIRGIN ISLANDS

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to share with you the rationale for granting certain charterboarts in the U.S. Virgin Islands relief from burdensome entry requirements of Customs laws. This is an area of law where I believe it makes sense to treat supertankers that have traveled from half way around the world differently from forty-two foot sailboats that entered the waters of the British Virgin Islands for a few hours. And I must note here that the British Virgin Islands lay just a few hundred yards off the U.S. Virgin Islands. I would like to add that I am very pleased to be joined in this matter by my friend and colleague, the gentlelady from Maryland, Mrs. Holt.

Before I begin, I would like to point out that Mrs. Holt and I request for the purposes of your consideration that the text of H.R. 1684, a copy of which is included with my testimony, be substituted for that H.R. 191. Prior to the introduction of H.R. 191, the International Trade Commission had made several helpful technical recommendations that have been included in H.R. 1684. We therefore ask your consent and cooperation in substituting the language of these two measures.

The charterboat industry in the U.S. Virgin Islands is, for obvious reasons, very extensive and contributes significantly to the growth and well-being of our local economy. Each year thousands of visitors lease or rent these vessels, for various periods of time, to take advantage of the many recreational activities afforded by our clear tropical waters and impeccable weather. Those tourist dollars in turn, are recirculated into our local economy.

These charterboats make excursions into the nearby waters belonging to the British Virgin Islands. At certain points these waters are a mere few hundred yards away from ports in the U.S. Virgin Islands.

H.R. 1684, if enacted, would amend section 441(3) of the Tariff Act of 1930 (19 U.S.C. 441(3)) to add certain charterboats in the United States Virgin Islands to the

enumeration of vessels not required to make entry at the customhouse. Specifically, charterboats on either day sail or term charter (hire for a specified period) which are carrying paying passengers on excursion from the U.S. Virgin Islands to the British Virgin Islands and back would not be obliged to make entry on return. These vessels would be added to subsection 3 of the above section, which excepts from entry licensed yachts or undocumented American pleasure vessels not engaged in trade or violating in any way the customs or navigation laws of the United States and not having visited any hovering vessel (defined in section 401(k) (19 U.S.C. 1401(k)). The master of any such vessel or charterboat would be required to make a report within twenty-four hours after arrival to the appropriate customs officer of any article on board for which entry is required by law. Yachts and pleasure vessels have been exempted from entry requirements under this subsection since 1954, with the proviso that articles for which entry is necessary be reported.

The expense and burden involved in making entry, particularly when the customs office is closed, is much too great in comparison to the value of any statistics compiled. Inspections occur on rare occasions, if at all.

Our legislation would permit masters of charterboats to use the convenient practice available to masters of licensed yachts and pleasure vessels—that is, a phone call to the customs officer within twenty-four hours of an arrival in port to report any articles for which entry is necessary. Customs inspections may still be conducted at the discretion of the appropriate officer.

If these charterboats are exempted from entry requirements, any fees currently being assessed on filing would be lost. Exact figures on the amount of fees collected are not available. However, there would be an associated savings for the Customs Service in the reduction of paperwork; an unknown amount of overtime pay might be saved as well. Since reports on articles for which entry is necessary must still be filed, no significant change in the amount of duties collected thereon is expected. Comparable numbers of vessels inspection are likely to occur, leaving accompanying costs virtually unchanged.

Mr. Chairman, this is a relatively simple measure that in these days of fiscal constraints and deregulation is in keeping with our times. I urge the Subcommittee's favorable approval of this measure and thank you for your time.

98TH CONGRESS
1ST SESSION

H. R. 1684

To exempt certain charterboats in the United States Virgin Islands from the entry requirements of the customs laws.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 1983

Mr. DE LUGO (for himself and Mrs. HOLT) introduced the following bill; which was referred to the Committee on Ways and Means

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A BILL

To exempt certain charterboats in the United States Virgin Islands from the entry requirements of the customs laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 441(3) of the Tariff Act of 1930 (19 U.S.C. 1441(3)) is amended by inserting immediately before ": *Provided,*" the following: ", and charterboats, whether on day sail or term charter, carrying passengers for hire, on excursion from the United States Virgin Islands to the British Virgin Islands, or the waters thereof, and return, and not having visited any hovering vessel".

SEC. 2. The amendment made by the first section of this Act shall apply with respect to charterboats returning from the British Virgin Islands on or after the date of the enactment of this Act.

○

VIRGIN ISLANDS CHARTERBOAT LEAGUE

Homeport, St. Thomas
U.S. Virgin Islands 00802
Telephone: (809) 774-3944

25 April 1983

The Honorable Sam Gibbons
Chairman
Sub-committee on Trade
233 Cannon Office Building
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

On behalf of the Board and Membership of the VIRGIN ISLANDS CHARTERYACHT LEAGUE, we urge your Committee to act favorably upon H.R. 1684 as introduced by Congressman Ron deLugo of the Virgin Islands and jointly sponsored by Congresswoman Marjorie Holt of Maryland.

As the law stands now, small charteryachts and daysail boats carrying only a few passengers into the near-by British Virgin Islands are required to complete the same burdensome Customs forms as tankers, freighters, and large cargo vessels. The amount of time consumed and expense incurred on a daily basis by both the yachts and U.S. Customs seems to us to be wasteful. We request that the crewed charteryachts of the Virgin Islands be put into the same catagory as private yachts and pleasureboats.

Thank you for your consideration.

Respectfully,

VIRGIN ISLANDS CHARTERYACHT LEAGUE

Paul E. Drinkwine
Executive Director

PED:bt
483:019

Chairman GIBBONS. I notice on here that no documents are required in the U.S. Virgin Islands when traveling to the British Virgin Islands. Proof of citizenship is required and a passport is recommended. Do they really go through all of that?

Mr. DE LUGO. When we go over to the British Virgin Islands?

Chairman GIBBONS. Yes.

Mr. DE LUGO. Not usually. It is just not enforced. In fact, we usually know each other. You know how it is. We are neighbors.

Chairman GIBBONS. Mr. Frenzel.

Mr. FRENZEL. Mr. Chairman, I do not have any questions. Nobody has any objection to this. I guess the question is, is your bill identical to Mrs. Holt's?

Mr. DE LUGO. No, there is a difference. And as I understand it, Mrs. Holt is recommending that my bill be the vehicle that be considered.

Chairman GIBBONS. All right. Thank you very much.

Mr. DE LUGO. Thank you very much.

Chairman GIBBONS. We are going to keep your literature. I am interested.

Mr. DE LUGO. Come on down and check out how it works after you pass the legislation.

Chairman GIBBONS. All right. Next we have Mr. Perkins.

STATEMENT OF HON. CARL D. PERKINS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KENTUCKY

Mr. PERKINS. Thank you, Mr. Chairman.

I do not have but very little industry in my area, but we have a bicycle center in Maysville, Ky., that makes parts, several parts for bicycles that did employ about 400 people. Now they are down to 200 employees, primarily because of the recession. But we have an import situation that is being proposed that is going to completely destroy the plant down there. H.R. 657 would amend the Foreign Trade Zone Act to exempt bicycle component parts which are not reexported from the exemption from the customs laws otherwise available to merchandise in foreign trade zones.

I want to bring to your attention the serious issues that make positive action on this legislation so imperative. The bicycle component parts industry in the United States has been fighting a long, hard battle against aggressive foreign competition in the domestic market. At the present time virtually all bicycle component parts of types not currently manufactured in the United States can be imported duty free. That is, over 40 percent of the component parts of a finished bicycle enter the country with no duty at all. Only those parts which compete directly with domestically manufactured parts are dutiable.

This situation of course is well known to the members of this subcommittee, but the duty suspension legislation has been enacted several times in the past decade, carefully balancing the needs of the domestic bicycle industry, the component parts industry and the national industry of the United States in dealing with our international trade partners.

Our concern here is that this careful balance, thoughtfully and painstakingly developed through legislation and international ne-

gotiation, could soon be upset, and with disastrous results. That the Congress has the right and the obligation to oversee and protect that careful balance is beyond question.

The present situation was brought to my attention in the fall of 1982 by officials of Wald Manufacturing Co., a maker of bicycle component parts in Maysville, Ky. in my congressional district. According to their information, Huffy Manufacturing Corp., the leading manufacturer of completed bicycles in the United States, has made application to the Federal Trade Zones Board for a grant of subzone status to facilitate the importation and use of foreign bicycle parts, those parts which are not already imported duty free.

Duty imposed on these parts would be levied upon departure from the subzone as parts of a completed bicycle, and at the completed bicycle rate of 5.5 percent—a drastic reduction from the current 13½ average duty on imported component parts.

The effects of this action on the component parts industry would be devastating. The protection offered by the existing tariff is desperately needed by domestic parts manufacturers who are already suffering severely from prevailing economic conditions. Tariff rates on these component parts are already scheduled for a gradual reduction to 10 percent by the year 1987, and this time for adjustment is desperately needed.

To drop the effective duty rate immediately to a rate far below that contemplated by the law would amount to putting domestic manufacturers of component parts out of business. Without the protection offered by H.R. 657, grant of foreign trade subzone status to Huffy Corp. or a major competitor would create a situation in which the two or three large manufacturers of completed bicycles, comprising nearly 70 percent of the domestic parts market, could obtain drastic reductions in tariff rates at the expense of smaller manufacturers of completed bicycles and of the domestic component parts industry.

It would only be necessary for foreign competitors to wait for the effects of decreased volume and demand to push the cost of doing business beyond the resources of American parts manufacturers. The wait would not be long, despite creative streamlining of production methods, and the redesign and modernization of facilities. The best efforts of domestic component parts manufacturers are keeping them just abreast of foreign competition. Grant of foreign trade subzone status within the bicycle industry at this time without the protection of H.R. 657 would deal a death blow to the domestic component parts industry.

The virtual destruction of a domestic industry is always a consequence of the gravest concern. At this moment in our history with critical levels of unemployment and business failures, such a possibility is unconscionable.

Most of these component part manufacturers are small companies or small subsidiaries that are located throughout the United States. Many are located in small communities where they are a major source of employment. Jobs lost through destruction of the industry would not be picked up elsewhere. The result will be more American workers in unemployment lines, more economic suffering and dislocation in American communities.

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The ill effects do not stop with those companies and their employees. The bicycle component parts industry, unlike the completed bicycle industry, buys the vast majority of its parts and materials from U.S. suppliers. The decline of the component parts industry would have unmeasured ripple effects far beyond these companies and their employees.

Now, you have several issues. It has been argued that certain imported manufacturers, automakers and so forth, are concerned that this exemption will be a precedent opening the gates for similar exemptions in other industries.

This is a very narrowly drawn bill. It is not intended to be a precedent. The specific facts related to this industry and the severe, direct and predictable damage to the bicycle parts industry if no action is taken point to the necessity of taking this legislative action.

Appropriate care can and should be taken to assure that this is properly defined and circumscribed, but it is unacceptable to allow the destruction of business and employment in one industry on the grounds that it may set a precedent. Stable employment opportunities are not luxuries we can afford to sacrifice, particularly at this time.

Now, it is said that granting subzone status to Huffy and permitting the usual subzone tariff advantage would increase employment opportunities at Huffy facilities even if would decrease employment at component part facilities. I do not agree with that statement. There is no indication that increases in employment at Huffy's plant would even begin to approach the number of jobs to be lost at parts facilities throughout the country.

It is unlikely that this offset of employment opportunities would be equal, since the manufacture of components is more labor intensive than assembly of completed bicycles. Unlike bicycle manufacturers, component parts makers rely almost solely on domestic suppliers of raw materials, which would extend the impact of loss of employment beyond the component part makers and their employees.

Now, the foreign trade zones board has proposed regulations to deal with situations such as this one. It would be preferable to let the administrative process work and then correct any resulting damage. Let me discuss that issue.

There are several problems with this approach. The tariff protection rates have been very carefully set——

Chairman GIBBONS. Mr. Chairman, we are going to have to go and vote.

Mr. PERKINS. Well, I only lack about a half a page.

But it would be my hope that the tariff protection rates have been very carefully set to balance the interest of the bicycle industry, the parts manufacturers, the consumer and the Government's interest in maintaining its position with its international trading partners. Grant of this application without the adjustment provided in H.R. 657 would upset this balance.

The Congress and all the parties involved have a strong interest in maintaining this balance. Changes should be as directly and carefully considered as the original arrangement has been.

This is not a situation where a wait-and-see attitude will be effective. Once the forces are set in motion, the effects will quickly and inevitably run out of control. It will be far harder to reverse than prevent.

The new proposed regulations have a number of problems, anyway. For example, section 400-302(b) of the proposed regulations appears to allow existing zones to apply for noncontiguous areas as an expansion or boundary modification and avoid altogether the need to show that such a zone would be in the public interest.

Current applications are made in many cases by the existing foreign trade zone on behalf of potential subzone grantees. In fact, this was the case with the Huffy application. Under the proposed regulations, then, the public service protections written into this sections 400.400 and 400.807 would be ineffective.

Mr. Chairman, I wish we had more time, but let me say to you that we are not trying to set a precedent for all other industries, auto and so forth. This is a narrow situation and it would be my hope that you would take a careful look at the bill, H.R. 657, and see if we cannot do something about it, because Huffy is going to put these other people out of business if we do not do it.

I thank all of you, and let me ask unanimous consent to get my remarks in the record.

Chairman GIBBONS. Your entire remarks will be put in the record.

[The prepared statement follows:]

STATEMENT OF HON. CARL D. PERKINS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KENTUCKY

I appreciate the opportunity to be here before the subcommittee today, and I thank the distinguished chairman. H.R. 657 would amend the Foreign Trade Zones Act to exempt bicycle component parts which are not re-exported from the exemption from the customs laws otherwise available to merchandise in foreign trade zones. I want to bring to your attention the serious issues that make positive action on legislation so imperative.

The bicycle component parts industry in the United States has been fighting a long, hard battle against aggressive foreign competition in the domestic market. At the present time, virtually all bicycle component parts of types not currently manufactured in the United States can be imported duty free. That is, over 40 percent of the component parts of a finished bicycle enter the country with no duty at all. Only those parts which compete directly with domestically manufactured parts are dutiable.

This situation, of course, is well known to the members of this subcommittee. Duty suspension legislation has been enacted several times in the past decade, carefully balancing the needs of the domestic bicycle industry, the component parts industry, and the national interest of the United States in dealing with our international trading partners. Our concern here is that this careful balance, thoughtfully and painstakingly developed through legislation and international negotiation, could soon be upset, and with disastrous results. That the Congress has the right and the obligation to oversee and protect that careful balance, is beyond question.

The present situation was brought to my attention in the fall of 1982 by officials of Wald Manufacturing Co., a maker of bicycle component parts in Maysville, Ky., in my congressional district. According to their information, Huffy Manufacturing Corp., the leading manufacturer of completed bicycles in the United States, had made application to the Federal Trade Zones Board for grant of subzone status to facilitate importation and use of foreign bicycle parts, those parts which are not already imported duty free. Duty imposed on these parts would be levied upon departure from the subzone as parts of a completed bicycle and at the completed bicycle rate of 5.5 percent—a drastic reduction from the current 13.5 percent average duty on imported component parts.

The effects of this action on the component parts industry would be devastating. The protection offered by the existing tariff is desperately needed by domestic parts manufacturers who are already suffering severely from prevailing economic conditions. Tariff rates on these component parts are already scheduled for gradual reduction to 10 percent by the year 1987, and this time for adjustment is desperately needed. To drop the effective duty rate immediately to a rate far below that contemplated by the law would amount to putting domestic manufacturers of component parts out of business.

Without the protection offered by H.R. 657, grant of foreign trade subzone status to Huffy Corp., or a major competitor would create a situation in which the two or three large manufacturers of completed bicycles, comprising nearly 70 percent of the domestic parts market, could obtain drastic reductions in tariff rates, at the expense of smaller manufacturers of completed bicycles and of the domestic component parts industry. It would only be necessary for foreign competitors to wait for the effects of decreased volume and demand to push the cost of doing business beyond the resources of American parts manufacturers. The wait would not be long. Despite creative streamlining efforts of production methods, redesign, and modernization of facilities, the best efforts of domestic component parts manufacturers are keeping them just abreast of foreign competition. Grant of foreign trade subzone status within the bicycle industry at this time without the protection of H.R. 657 would deal a death blow to the domestic component parts industry.

The virtual destruction of a domestic industry is always a consequence of the gravest concern. At this moment in our history, with critical levels of unemployment and business failure, such a possibility is unconscionable. Most of these component parts manufacturers are small companies or small subsidiaries. They are located through out the United States. Many are located in small communities where they are a major source of employment. Jobs lost through destruction of this industry will not be picked up elsewhere. The result will be more American workers in unemployment lines, more economic suffering and dislocation in American communities.

The ill effects do not stop with those companies and their employees. The bicycle component parts industry, unlike the completed bicycle industry, buys the vast majority of its parts and raw materials from U.S. suppliers. The decline of the component parts industry will have unmeasured ripple effects far beyond these companies and their employees.

I know personally of the valuable contribution Wald Manufacturing Co. has made in my congressional district. Wald has been doing business in Maysville, Ky., since 1924. For over half a century, it has been a firm community anchor, providing stable employment and responsible community support. It will be a bitter loss if Wald Manufacturing Co. is forced to close its doors. I have no doubt that the stories are similar for other such companies throughout the country.

Unemployment is certainly not a new issue to Members of the Congress. We are currently spending billions of dollars in an attempt to alleviate, at least temporarily, the staggering unemployment our citizens are facing at this time. To permit the irreparable and inevitable destruction of a domestic industry is an error we simply cannot afford.

The conditions that exist in the bicycle industry and the danger to the component parts industry threatened by the potential approval of Huffy Corp.'s application for subzone status led to development of this legislation. It is drafted narrowly to cover only this industry and not to interfere with any actions taken or planned in other industries. There can be no doubt that each industry is unique, and is subject to a vast number of differing conditions domestically and abroad. H.R. 657 is drafted to meet the conditions existing in the bicycle component parts industry.

The proposition that Congress may not or should not act to maintain the integrity of a legislative scheme as carefully crafted as the U.S. trade laws and tariff schedules, is preposterous. That circumvention of congressional intent and policy is by the tangential, back door route of Federal trade sub-zone status in no way diminishes the authority or the duty of the Congress to make necessary legislative adjustments to serve the best interest of the citizens of the United States.

In conclusion, I bring before you an issue that should be of concern to us all. Wald Manufacturing Co. is just one example of the companies which would be adversely affected without the protection provided in H.R. 657. The administration appears to oppose this bill because they feel it is not the province of the legislative branch to intervene in what is an administrative process.

Mr. Chairman, it is unthinkable that the Congress, the elected representatives of the citizens of the United States, may only stand by blindly while an entire domestic industry is ground up in the machinery of the bureaucracy.

Mr. Chairman, I strongly urge the subcommittee to expeditiously consider and approve H.R. 657.

I thank the chairman and the subcommittee members for allowing me this opportunity to present my views on this legislation. I remain available to the subcommittee for any further information or assistance which I might be able to provide.

Chairman GIBBONS. When we return, we will take up Wald Manufacturing, Carlisle Tire, Roadmaster, and Cycle Parts people. Then we will go back and pick up Huffy and the National Association of Foreign Trade Zones.

[Recess.]

Chairman GIBBONS. Mr. Kindness, would you come forward. Then we will take your panel. Then we will come back and pick up Wald and Carlisle and Roadmaster, who support the bill.

STATEMENT OF HON. THOMAS N. KINDNESS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. KINDNESS. Thank you, Mr. Chairman. I appreciate very much the opportunity to appear before the subcommittee this morning. I will correct that: this afternoon now.

I regret that I must oppose the bill that is sponsored by our distinguished colleague Mr. Perkins of Kentucky, H.R. 657, which is designed to do one thing, to single out bicycle manufacturers and prohibit them from enjoying the benefits of the laws that were enacted for all industries.

If we were here talking about the automobile industry today, there would be many examples cited of the use of this law, such as the Honda plant in Ohio, or there is an electronics plant in Tennessee, similarly enjoying the benefits of the trade zone protection under the laws of the United States.

The law was enacted to benefit all industries, and here today we are talking only about the bicycle manufacturers. The Foreign Trade Zones Act permits the establishment of foreign trade zones and subzones if certain statutory criteria are met. It does not specify which company and which kinds of industries may apply to the Foreign Trade Zones Board for a zone. The act and the Board's regulations establish certain criteria and procedures for action upon a company's application.

Huffy Corp. has applied for a foreign trade zone or subzone at Celina, Ohio, which is in the Eighth District of Ohio, at their bicycle manufacturing plant. Its application has been pending before the Board for many months.

H.R. 657 seeks to short circuit the administrative process and deny Huffy the benefits for which it would otherwise qualify. It is blatantly discriminatory and unfair legislation that is proposed to the subcommittee this morning.

H.R. 657 is also unwise, for several reasons. Its purported purpose is to help domestic bicycle parts producers; unfortunately, it will do more harm than good to those very same parts producers.

The domestic bicycle industry is pitted in a battle against imports—products that are built with 100-percent foreign parts. Unless leading companies like Huffy can stay competitive in this very active market, fewer domestic bicycles and fewer domestic parts in turn will be sold. In fact, bicycle imports pose a greater threat to parts producers than do imports of parts.

To put it very succinctly and bluntly, if the bicycle manufacturers in the United States are not able to compete and stay in business manufacturing bicycles in the United States and go offshore, parts manufacturers in the United States are not going to have a market for their parts.

This subzone application is not an effort to shift jobs from Kentucky or Illinois to Ohio, nor will the subzone, if granted, have that effect. This subzone will help keep Huffy competitive with its foreign competition and ultimately will mean more, not fewer, jobs for the domestic parts industry in all parts of the country.

Mr. Chairman, everyone in this room wants both a small domestic bicycle parts industry and a strong bicycle industry. H.R. 657 will not promote either goal, and I would urge the subcommittee not to act favorably on this legislation.

I would like to turn for just 1 minute, however, to the question of unemployment. The manufacturing plant of Huffy at Celina, Ohio, is in the county called Mercer County. That county is one of the counties in the State of Ohio having one of the highest rates of unemployment rather consistently over the last 2- to 2½-year period.

At the present time the State of Ohio, averaging over the last 12 months, it has had 14 percent unemployment average. Mercer County has been running close to 18 percent this year. Last month's figure was at 16.7 percent.

At Huffy in Celina last year there was, on the basis of their records alone, 44 percent unemployment among their people. Huffy has been recalling their people. If this bill were to be favorably reported by the subcommittee and passed by the House and become law, I would have to tell many people in Mercer County, Ohio, that the Congress did not understand what it was doing to unemployed people who were waiting to be recalled or who had their application pending for work at the Huffy plant in Celina, Ohio.

I do not think it is the intention of this subcommittee to seriously consider any legislation that is blatantly discriminatory in its effect, that would deny the benefits of the law to one particular industry or part of an industry, and H.R. 657 I am afraid is just that kind of legislation.

There are questions that have been raised about whether the effect of the establishment of this foreign trade zone, subzone, would move jobs offshore. The fact of the matter is, in terms of marketing the advantage to Huffy would be that it could compete with foreign manufacturers of bicycles, bringing them into the United States enjoying a tariff rate which is lower on all of the parts combined than on the single parts as they are imported.

That is a disadvantage to a U.S. bicycle manufacturer, to all U.S. bicycle manufacturers. The establishment of this trade zone allowed to be established under the existing laws of the United States would help this company to remain competitive. The same advantage of the law is available to other bicycle manufacturers.

Let us keep both the healthy bicycle parts industry with a market for what it produces and a healthy U.S. bicycle industry. And I would urge the subcommittee's careful consideration of the legislation before them, H.R. 657. I would certainly hope that it would be unfavorably considered.

And I would be glad to answer any questions, Mr. Chairman.

Chairman GIBBONS. Thank you for your very fine testimony and your deep interest in this bill.

Mr. Frenzel.

Mr. FRENZEL. Thank you, Mr. Chairman.

Mr. Kindness, what is the percentage of foreign parts in the value of a Huffy bicycle contemplated to be under the arrangement?

Mr. KINDNESS. I would defer for accurate figures to the panel representing the Huffy Corp. that will be appearing shortly before you. But my recollection is in the presentation made to the Foreign Trade Zones Board that we are talking about somewhere in the range of 25 percent of the cost of a finished bicycle.

Mr. FRENZEL. Thank you very much. Thank you for your testimony.

Chairman GIBBONS. All right. Now we are going to hear from the Huffy Corp. and the National Association of Foreign Trade Zones. Please come forward. We will follow your testimony with the supporters of the bill.

Go right ahead, sir.

STATEMENT OF ROBERT WIELAND, VICE PRESIDENT, SECRETARY AND GENERAL COUNSEL, HUFFY CORP., ACCOMPANIED BY PAUL C. ROSENTHAL, COUNSEL

SUMMARY

1. Huffy is the largest domestic bicycle producer. It relies upon and supports its domestic bicycle parts suppliers.
2. A foreign trade subzone will help Huffy remain competitive with foreign bicycle producers. A healthy domestic bicycle industry is essential to a healthy bicycle parts industry.
3. Grant of a foreign trade subzone will not increase Huffy's reliance on imported bicycle parts. Moreover, Huffy has offered to limit its subzone benefits to eliminate any incentive to increase imports of bicycle parts.
4. H.R. 657 is unwise and should not be favorable reported.

Mr. WIELAND. Thank you, Mr. Chairman.

My name is Robert R. Wieland. I am vice president, general counsel, and secretary of Huffy Corp., headquartered in Dayton, Ohio. With me today is Paul Rosenthal of the Collier, Shannon, Rill & Scott law firm here in Washington, who is counsel to us in connection with our application for a foreign trade subzone at Celina.

Huffy is America's largest producer of bicycles. Unfortunately, for the last several years the bicycle business has not been a highly profitable, excellent business. As a result of these business conditions, we were forced to close our Azuza, Calif., bicycle plant about one year ago and last month we announced the closing of our Ponca City, Okla., bicycle manufacturing facility, which began production only 3 years ago.

Although Huffy is a modern and efficient company—perhaps the most modern and efficient in our industry—the combination of the recession and rising import competition have caused it serious harm. We have taken the steps that I outlined above with the hope and belief that they will go a long way toward restoring Huffy to profitability after three consecutive quarters of losses, followed by one quarter with earnings just above the breakeven level.

Historically Huffy has produced its bicycles in American factories using American labor and predominantly American parts. Unlike at least one of our domestic competitors, which has abandoned domestic production and is now a major importer of bicycles, we have still maintained our American base. Further, we believe that Huffy uses a lower percentage of imported bicycle parts on its domestically produced bicycles than do several of our domestic competitors.

Unfortunately, Huffy must import a substantial amount of bicycle parts. Some parts simply are not made in this country, while others are not made in sufficient quantity or lack the specifications required to satisfy Huffy's and its customers' demands.

In some instances, foreign parts are of better quality and lower priced than their domestic counterparts. Nevertheless, Huffy must compete against foreign bicycles that contain solely foreign parts.

We have applied for a foreign trade subzone simply to reduce the costs associated with importing bicycle parts. The subzone would allow Huffy to pay bicycle duty rates on imported parts, rather than the much higher bicycle parts duty rates. This duty savings should enable us to produce more competitively priced bicycles. H.R. 657 is directed at Huffy's application and would deny Huffy the benefit of a subzone.

We did not apply for the subzone in order to increase our parts imports, and believe me, we do not in any way want to harm our very valuable parts suppliers in the United States, upon whom we so heavily rely. Huffy depends upon a healthy domestic parts industry for its own survival. By the same token, without a healthy domestic bicycle industry, there can be no healthy domestic parts industry.

Appended to my written statement that was filed earlier with the committee is a brief that Huffy filed with the Foreign Trade Zones Board. The brief rebuts the opposition to Huffy's application and explains why the subzone should result in more jobs for both the domestic bicycle parts and the domestic bicycle manufacturing industries. If possible, I would like this brief to be included in the record of these hearings.

Chairman GIBBONS. How thick is it?

Mr. WIELAND [indicating].

Chairman GIBBONS. No, sir, we are not going to put that in. It costs the Government too much money. We will receive it, but we are not going to put it in the record.

Mr. WIELAND. That is fine, thank you.

Huffy believes that its application is sound and, if approved, would result in benefits to the entire economy. But to meet the parts industry's concerns, we have informally indicated to the Foreign Trade Zones Board staff that Huffy would accept a limitation on the use of the subzone.

Specifically, Huffy would be willing to limit its subzone benefits using a formula based upon the average value of the bicycle parts it has imported annually over the last 5 years, with certain adjustments made for inflation and the size of the U.S. bicycle market. For any imports of bicycle parts that exceed the allowed amount, Huffy would pay the normal duty rates. If adopted, this limitation

on the subzone benefits would eliminate any incentive for Huffy to increase its bicycle parts imports.

Mr. Chairman, Huffy has acted in good faith and in accordance with the law when applying for a foreign trade subzone at our Celina, Ohio, facility. We have also acted to meet the claims of the domestic parts industry in offering to accept a limitation on our enjoyment of the subzone benefits.

H.R. 657 is an unwise and unjust intrusion into the application process of the Foreign Trade Zones Board. It is based on faulty premises and, if enacted, it would set a bad precedent by singling out specific companies or industries as ineligible for foreign trade zones. I urge the subcommittee not to act favorably upon this bill.

I want to thank the subcommittee for the opportunity to present the views of Huffy Corp., and we would be most happy to try to answer any questions you have.

Chairman GIBBONS. All right.

Let us take the Foreign Trade Zones Association.

STATEMENT OF STEPHEN CRESKOFF, COCHAIRMAN, GOVERNMENT REGULATIONS COMMITTEE, NATIONAL ASSOCIATION OF FOREIGN-TRADE ZONES, ON BEHALF OF JOSEPH F. O'CONNOR, VICE PRESIDENT

Mr. CRESKOFF. Mr. Chairman, Stephen Creskoff again, representing the National Association of Foreign-Trade Zones.

Chairman GIBBONS. We will put your statement in the record. You do not have to read the whole thing.

Mr. CRESKOFF. I would be happy not to. I was going to suggest that myself, Mr. Chairman.

The major point we would like to make is that no commodity has ever before been excluded from foreign-trade zones by amendment of the Foreign-Trade Zones Act, and there is a good reason for that. That is that the act itself and implementing Commerce Department regulations, specifically 15 CFR 400.807, provide a safety valve for exclusion of goods that are inimical to the public interest.

There is already an administrative proceeding in effect looking specifically at that issue now, and I think in the opinion of the association it would be poor legislative practice to interfere with that proceeding.

Thank you.

[The prepared statement of Mr. O'Connor follows:]

STATEMENT OF JOSEPH F. O'CONNOR, VICE PRESIDENT, NATIONAL ASSOCIATION OF FOREIGN-TRADE ZONES

The National Association of Foreign-Trade Zones is an association of foreign-trade zone grantees, operators, users, and businessmen and professionals interested in foreign-trade zones operations. The Association represents the large majority of all businesses and individuals involved with foreign-trade zone activities. Over 90 percent of business concerns involved with foreign-trade zone activities are categorized as small businesses.

Commercial activity in foreign-trade zones in recent years has dramatically increased. Most major automotive manufacturers in the United States are presently either operating in a foreign-trade zone or are in the process of establishing foreign-trade zone operations. In addition, oil refineries, pharmaceutical and electronics manufacturers, and many other industries are utilizing foreign-trade zones. Foreign-trade zone operations have attracted millions of dollars of investment and thousands of jobs to the United States from abroad. Recently, a number of major foreign

companies have established, for the first time, manufacturing operation in the United States in foreign-trade zones. Moreover, foreign-trade zone operations now planned by U.S. automobile manufacturers will allow them to be more competitive with vehicles manufactured overseas.

The United States Congress, by passage of the Foreign-Trade Zones Act, has created foreign-trade zones and foreign-trade subzones in areas that are physically within the boundaries of the United States but outside the U.S. customs territory for the purpose of expediting and encouraging foreign commerce. There are presently approved or pending approval zones in 38 states and Puerto Rico.

In recent years, the U.S. Treasury and Commerce Departments have promulgated changes in foreign-trade zone regulations designed to encourage foreign investment and employment in the United States. This policy, as expressed in the regulations of these two departments, has had the desired result. Between 1970 and 1982 the value of shipments through U.S. foreign-trade zones grew from $201 million to over $7 billion, and zone-related employment increased from 1,186 to over 29,000. Indirect employment benefits may amount to between 60,000 and 90,000 additional jobs created. Approximately 50 percent of all merchandise moving through general purpose zones in 1982 was exported. In short, Congressional and Executive Branch policies to further foreign-trade zone activities have had a substantial, positive effect on the U.S. economy during a period where the United States has sorely needed the employment and investment created by zone activities.

The National Association of Foreign-Trade Zones supports without qualification the passage of H.R. 717. H.R. 717 provides in summary that foreign goods brought into a foreign-trade zone and U.S. goods shipped into a zone for exportation will be exempted from state and local ad valorem taxes. We believe that this bill reflects current practice in those states under Free Port laws and similar state legislation. To the extent that this bill will resolve issues favorably for zones in Texas and other states, the Association supports H.R. 717. Many taxing authorities have refrained from imposing an ad valorem personal property tax on all foreign and domestic merchandise in foreign-trade zones. The reasons are clear. Under the Foreign-Trade Zones Act and implementing regulations, merchandise in foreign-trade zones is not within the customs territory of the United States. Similarly, attempts to place a tax directly on merchandise in international commerce have been held unconstitutional. In sum, a pervasive federal regulatory system provides that foreign-trade zones are specially designated enclaves for international commerce entitled to certain federal benefits, including exemption from local ad valorem personal property taxation.

Because of the federal regulatory system described above, the National Association of Foreign-Trade Zones believes that state and local taxation of merchandise in foreign-trade zones has been preempted. Indeed, the Supreme Court of the United States, in a case decided only a few months ago, found federal preemption with respect to merchandise stored in a customs bonded warehouse in Houston, Texas. The foreign-trade zone regulatory system makes it much clearer that foreign-trade zones are in international commerce than in the case with customs bonded warehouses. Therefore, the Supreme Court's recent decision in *Xerox Corp.* v. *County of Harris, Tex.* in the Association's view applies without question to state taxation of merchandise held in foreign trade zones.

Unfortunately, a particular problem exists with respect to ad valorem property taxes imposed by the State of Texas. It is our understanding that the Texas State Constitution exempts only certain commodities from taxation and does not specifically exempt commodities in foreign trade zones. Although most Texas taxing authorities have recognized the tax exempt status of merchandise in foreign-trade zones, because of the Texas State Constitutional problem, there is always a possibility that a particular local taxing authority will attempt to assess an ad valorem personal property tax on inventory in foreign trade zones. This possibility, which became a reality with respect to merchandise in customs bonded warehouses in the *Xerox Corp.* case, is acting to discourage businesses considering locating in foreign-trade zones in the State of Texas. Under Texas law, if a local authority decided to assess an ad valorem inventory tax on merchandise in a foreign trade zone, the businesses in question would be required to pay the assessment and then sue the taxing authority for a refund. Even after the Supreme Court's decision in the *Xerox* case, many businesses do not want to take this sort of risk.

In conclusion, in order to clarify the non-taxable status of merchandise in foreign trade zones in Texas, the National Association of Foreign-Trade Zones strongly urges passage of H.R. 717.

Turning now to H.R. 657, the National Association of Foreign-Trade Zones opposes this bill. H.R. 657 would amend the Foreign-Trade Zones Act to exclude bicycle component parts from foreign-trade zones unless such parts were to be exported

from the United States. No commodity has ever before been excluded from foreign-trade zones by amendment of the Foreign-Trade Zones Act.

The Association has two important reasons for strongly opposing this proposal. First, there is no valid economic reason to single out bicycle component parts for exlusion by statute from foreign-trade zones. Second, the Foreign-Trade Zones Act and implementing Commerce Department regulations (15 C.F.R. § 400.807) provide a safety valve for exclusion of goods and processes if inimicable to "the public interest, health or safety". Thus, an administrative process exists for accomplishing precisely what would be accomplished by H.R. 657. Proponents of H.R. 657 have attempted to utilize this administrative process and a decision is pending.

Two major advantages accrue to importers by use of foreign-trade zones. Import duties are deferred until merchandise leaves the foreign-trade zone and enters the customs territory of the United States. This can result in significant cash flow benefits. In addition, in situations where the tariff on parts or components is higher than the tariff on the finished product manufactured in a foreign-trade zone, manufacture in a zone permits an importer to pay the lower tariff, i.e. the tariff on the finished product, on the value of the imported parts. In the case of bicycle parts, this would permit a manufacturer assembling bicycles in a foreign-trade zone to pay 5.5 percent, the duty applicable to most of the finished bicycles imported, instead of the higher tariffs applicable to parts. This foreign-trade zone advantage was implemented specifically with the purpose in mind of encouraging employment and investment in the United States. In other words, it was the view of Congress and the Executive Branch that the tariff advantages provided by manufacturing in a foreign-trade zone create employment and investment in the United States that otherwise would be made in foreign countries. Prohibiting the entry of bicycle parts into foreign-trade zones would frustrate this policy objective leading to more bicycles being manufactured overseas and imported at the 5.5 percent ad valorem rate, and less bicycles being manufactured in the United States.

Secondly, even assuming that proponents of H.R. 657 had valid economic policy arguments for excluding bicycle parts from foreign-trade zones, the Asssociation opposes the proposed legislation on the ground that proponents of it have failed to exhaust a pre-existing administrative remedy specifically provided by Congress in the Foreign-Trade Zones Act. As mentioned previously, the Act and implementing regulations permit the Foreign-Trade Zones Board to exclude goods and processes from foreign-trade zones if they are found to be detrimental to the public interest. We have been informed that the proponents of H.R. 657 have requested the Foreign-Trade Zones Board to conduct such a public interest investigation in connection with a zone application, and that the matter is now pending at the Commerce Department. This administrative process should be permitted to continue to conclusion.

For the reasons expressed above, the National Association of Foreign-Trade Zones is in opposition to H.R. 657.

Thank you for your time. I'll be happy to answer any questions that you may have.

Chairman GIBBONS. Mr. Frenzel.

Mr. FRENZEL. I want to commend the gentleman on his brilliant and terse statement. [Laughter.]

Can the gentleman from Huffy corroborate the testimony of the Congressman from Ohio? Are you using about 25 percent foreign components?

Mr. WIELAND. I am not sure if Congressman Kindness gave a percentage, sir. I think he deferred to us, and unfortunately I cannot give you a single precise answer that would be totally applicable.

Mr. FRENZEL. Can you give us a wild swinging guess on the subject?

Mr. WIELAND. A wild swinging guess would be something less than half, and that is an estimate. The amount of foreign parts used in a particular bicycle will vary from model to model and type to type and style to style, and it will vary from time to time depending upon competitive circumstances and the availability of parts and a number of other factors.

Mr. FRENZEL. Are your competitors going to do the same thing you are doing eventually?

Mr. WIELAND. We have reason to believe so, yes, sir—at least some of them will.

Mr. FRENZEL. Thank you very much.

Chairman GIBBONS. It has nothing to do with bicycles, but I used to have one of your lawnmowers and it worked real well.

Mr. WIELAND. We are glad to hear it.

Chairman GIBBONS. In fact, I do not see how in the world you made it so inexpensively. It was a very inexpensive lawnmower, but it worked well.

Mr. WIELAND. We have been noted, seriously and not as a plug, for our efficient production methods.

Mr. FRENZEL. Are you still making the lawnmower?

Mr. WIELAND. No, sir.

Chairman GIBBONS. Thank you very much.

Mr. WIELAND. Thank you.

Mr. CRESKOFF. Thank you.

Chairman GIBBONS. Next we hear from a panel supporting Mr. Perkins' position: The Wald Manufacturing Co., Carlisle Tire & Rubber, Roadmaster Corp., and Cycle Parts & Accessories Association.

Mr. Frenzel, I will tell you, I will sell you mine cheap.

Mr. Taft, we are glad to have you back here.

Mr. TAFT. We are glad to be here, Mr. Chairman.

Chairman GIBBONS. It appears as if we are going to get some free bicycle tires. No, we are just going to look at them.

Senator, do you want to lead off?

Mr. TAFT. Mr. Chairman this panel will testify in favor of H.R. 657 and it includes Mr. Carlton Pawsat, president of Wald Manufacturing Co.; my partner Mr. Randy Stayin; Mr. John Guffey, president of Carlisle Tire & Rubber Co.; Mr. George Neble, the president of Roadmaster Corp. and president of the Bicycle Manufacturers Association; and also accompanying us here today are Mr. John Auerbach, executive director, and Mr. Robert Auerbach, general counsel, of the Cycle Parts & Accessories Association.

Mr. Pawsat will be our first witness.

Chairman GIBBONS. Go right ahead.

STATEMENT OF CARLTON P. PAWSAT, PRESIDENT, WALD MANUFACTURING CO., INC., ACCOMPANIED BY RANDOLPH J. STAYIN, AND ROBERT TAFT, JR., COUNSELS

Mr. PAWSAT. Mr. Chairman and committee members:

My name is Carlton Pawsat, president of the Wald Manufacturing Co., and I appreciate the opportunity to appear before the subcommittee today to testify in support of H.R. 657 and an identical bill, S. 722, introduced in the Senate. These bills are of vital concern to our company, our employees, and our industry.

I will attempt to abbreviate my testimony here. It is one of the most serious things to have happened to our company since I have been in the bicycle business after World War II, and I ask that my entire statement be included in the record.

Chairman GIBBONS. All right, sir, it certainly will be.

[The prepared statement follows:]

STATEMENT OF WALD MANUFACTURING CO., INC.

SUMMARY

Mr. Pawsat is testifying in support of H.R. 657, a Bill introduced by Congressman Perkins to amend the Foreign Trade Zones Act to exempt bicycle component parts, not exported, from the exemption from the customs laws otherwise available to merchandise in foreign trade zones. The bicycle parts industry is threatened by a pending application before the Foreign Trade-Zones Board for a manufacturing trade subzone at the Huffy Corporation's Celina, Ohio plant. If the subzone application is granted to Huffy under current law, Huffy will be able to avoid the tariff schedules which have been established by Congress. This will be accomplished through the manufacture and assembly of imported goods in the subzone into finished goods carrying a much lower duty rate than the rate assigned to the imported bicycle parts. This type of tariff avoidance is clearly inappropriate where Congress has already exempted virtually all bicycle components which are not manufactured domestically from any import duty (fully 42 percent of the dollar volume of imported parts). It would subvert the intent of Congress with regard to the purposes of the Foreign Trade Zones Act, undermine the hard fought efforts and reasoned conclusions of the U.S. multi-lateral trade negotiations on bicycle parts, and upset the delicate balance between tariffs on bicycle parts and bicycles which this Subcommittee has enforced.

The current tariff schedules carefully balance the competing interests of the domestic bicycle parts industry and those of the domestic bicycle industry. If the pending subzone application is approved without the amendment in H.R. 657, it will upset that balance and result in more bicycle parts for American assembled bicycles being manufactured in Taiwan, Korea, Japan, India and China. The carefully formulated tariff schedules will be avoided and so will the intent of Congress in setting those schedules. H.R. 657 will preserve the Congressional intent and yet allow Huffy the benefits of the subzone if the end product is actually exported. If the Huffy subzone is granted without passage of H.R. 657, we will see the destruction of the U.S. bicycle parts industry, the destruction of the small U.S. bicycle manufacturers, loss of substantial customs revenues, substantial loss of jobs, and in the long run, the ultimate demise of the entire domestic bicycle industry.

In recognition of these facts, 12 U.S. parts manufacturers and 8 U.S. bicycle manufacturers have also filed in opposition to Huffy's application. It is important to note that only one parts manufacturer and no bicycle manufacturer other than Huffy has filed in support of Huffy's application. The Cycle Parts and Accessories Association has filed in opposition to Huffy's application and has submitted written testimony with this Subcommittee in favor of H.R. 657. The Bicycle Manufacturers Association has taken no position on Huffy's application for subzone or this bill.

STATEMENT

My name is Carlton Pawsat, President of Wald Manufacturing Company, Inc. Accompanying me today is our counsel Robert Taft, Jr. and Randolph J. Stayin of Taft, Stettinius & Hollister. Also joining us are John Auerbach and Robert Auerbach, the Executive Director and General Counsel, respectively, of the Cycle Parts and Accessories Association, Inc. I appreciate the opportunity to appear before this Subcommittee today to testify in support of H.R. 657 and an identical bill, S. 3090 introduced in the Senate. These bills are of vital concern to our company, our employees and our industry.

Wald manufactures bicycle parts in Maysville, Kentucky. We have been in business since 1905 and in Maysville since 1924. We are a small business in a rural community. Our operations, equipment and plant facilities are modern. Because our only business is bicycle parts, our company's survival and our employees' jobs are solely dependent on the survival of the domestic bicycle parts industry. Our industry is threatened by an application to the Foreign Trade-Zones Board for a manufacturing subzone at Huffy Corporation's Celina, Ohio plant, FTZ Docket No. 17-82.

In the past decade, the bicycle parts industry has been seriously eroded. A combination of increased importation of bicycle parts, the recessionary economy and the strong dollar overseas have depressed our industry and our company. Wald's employment has, as a result, dropped from over 400 employees working overtime in 1973-74 to approximately one-half today, working a 4-day week for the most part of 1980, 1981 and 1982. Our industry has always had its ups and downs; however, we feel we can again survive until better times, unless the Huffy Corporation is granted this subzone.

The March 1983 edition of Ohio Business magazine features an article including an interview with Huffy's President/CEO, attached as Exhibit I, and entitled "Keeping Huffy Fit," which states that: "Huffy is this country's largest manufacturer of bicycles with a current domestic market share of 40 percent." It further states, ". . . the export market for U.S. bicycle manufacturers is practically nil." Huffy cannot deny and this article verifies that the primary purpose of the subzone application by Huffy is to avoid tariffs on bicycles Huffy produces for *domestic* consumption. This avoidance will occur as a result of assembly in the subzone of more imported parts into finished bicycles. When those bicycles leave the subzone into our economy, Huffy will pay the duty rate for bicycles, which, for the most part, carry a much lower duty rate than the established rate for imported parts. The subzone will allow Huffy to pay the bicycle rate rather than the imported parts rate on all of its imported parts. Huffy will have no incentive to make or buy domestically manufactured bicycle parts. The second largest bicycle manufacturing company, which enjoys 30% of the domestic market, will be forced to make the same move for a subzone in order to stay competitive. As a result, the U.S. bicycle parts makers market will shrink to nil. Smaller U.S. bicycle manufacturers who cannot qualify for or support the cost of a subzone will not be able to remain competitive and will be forced out of business.

Subzones have never been authorized by Congress. Instead they have come about by regulations. The legislative intent behind the Foreign Trade Zones Act was to expedite and encourage foreign trade. However, as applied to the bicycle parts industry, the Huffy subzone would be counterproductive. The attached copy of our Comments to the proposed new regulations on Foreign Trade Zones and Subzones (Exhibit II) elaborates on the legislative history of the Foreign Trade Zones Act and the failure of subzones to achieve the purposes of the Act. According to the Board's own Notice of Proposed Rule-Making, only 33 percent of the goods currently entering the zones and subzones is of domestic origin, and only 30 percent of the goods shipped out of the zones are exported. Thus, 70 percent of these goods are foreign imports into the United States.

Both the domestic bicycle and bicycle parts industries are very competitive, depressed and import sensitive. Congress has carefully balanced the import sensitivity of each industry by imposing tariffs on bicycle parts which are calculated, on a weighted average basis, to give preference neither to imported bicycles nor to imported parts. This *balance* allows 42 percent of the dollar volume of imported parts, most of which are used on domestic lightweight bicycles, to be imported duty-free. With duty rates of 5½ percent on lightweight bicycles and 11 percent on most other imported bicycles, the domestic bicycle manufacturers can use these duty-free component parts to *balance* the dutiable imported parts.

In comparison, dutiable imported parts tariffs range from 5 percent on tires to 15 percent on tubes (a 10 percent average), with most of the dutiable imported parts falling in the range of 13.3. percent. In conclusion, the average tariffs paid on imported parts is approximately the same as the average tariffs paid on imported bicycles.

This *balance* has been carefully enforced by this Subcommittee through the continuing series of duty suspension bills passed over the last 13 years. During that period, the bicycle manufacturers have come before this Subcommittee for five duty suspension bills and you have had to carefully examine the economies of the two industries. Working with this Subcommittee, a basic agreement has been reached between bicycle manufacturers, Congress and bicycle parts manufacturers: the duty on parts not manufactured in this country would be suspended but the duty on domestically manufactured parts would not be tampered with. Huffy's filing of the subzone application is a breach of this agreement and an act of bad faith.

As a result of this most recent round of multilateral trade negotiations, the tariffs on bicycle parts have been and will continue to be substantially reduced. In 1980, the average of tariffs was 15 percent. It is now 13.3 percent and will be reduced to 10 percent by 1987. These scheduled reductions provide substantial tariff relief for imported components. We are using the time provided by these phased reductions to continue our efforts to modernize our plant, improve our technology and to become more efficient. The U.S. negotiators had the authority to reduce our tariffs by 60 percent. Because they fully understood the import sensitivity of our industry, they concluded that a 33 percent reduction phased in over seven years would be as far as they could go without destroying the domestic bicycle parts industry. There is no need for further tariff relief. We need the time allowed by the phased reductions to meet and beat the foreign competition.

Through its subzone application, Huffy is attempting to subvert the intent of Congress with regard to the purpose of the Foreign Trade Zones Act, to undermine the

hard fought efforts and reasoned conclusions of our multilateral trade agreements on bicycle parts tariffs and to upset the delicate balance which this Subcommittee has enforced regarding tariffs on bicycle parts. The proceeding before the Foreign Trade Zones Board is an openly calculated attempt to avoid the tariffs on bicycle parts and is an abuse of that process. We respectfully ask this Committee to enact H.R. 657 in order to enforce the purposes of the Foreign Trade Zones Act and the decisions of our multilateral trade negotiators as well as maintain this Subcommittee's authority and responsibility for our tariff laws.

The Huffy Corporation's primary objective for a manufacturing subzone is not to export bicycles, but is to greatly reduce the duty they now pay on imported parts which now command two-thirds of the bicycle parts market in this country.

The Huffy Memorandum is Support of their application states:

"An important advantage of the subzone for Huffy would be the substantial cost reduction resulting on *parts that are already imported.* U.S. parts suppliers would not stand to lose any sales of these already imported parts, while Huffy would be able to improve competitive position by paying only as much duty on its parts imports as do the importers of complete bicycles, with which Huffy directly competes. Increased, rather than decreased, employment in the domestic parts industry is the likely result of granting Huffy's application."

The above statement of Huffy's is misleading and has no logical reasoning as to a "likely result" of increased employment. We will lose the additional parts that Huffy will begin to import once they are able, through the subzone, to avoid established parts tariffs. The net result will be *more* imported parts and a *loss* of employment in the domestic parts industry.

The reduction in duty that Huffy is trying to obtain through this manufacturing subzone which Huffy says, "could range as high as $2,400,000 per year" will come out of our hides and out of the hides of other domestic bicycle parts manufacturers. This subzone will also impact the domestic parts producers in another way, as it will give Huffy an additional competitive advantage over smaller bicycle manufacturers, displacing their market and thereby further eroding the domestic parts manufacturers' market.

To understand the devastating position this puts the domestic parts manufacturers in, this duty reduction would give foreign parts manufacturers, who now enjoy two-thirds of the domestic market, a further competitive advantage. For example, as a result of the tariff avoidance through the subzone, a bicycle part, selling for just over $1.00, would require an unbearable $.08, or 8 percent, reduction in our price or we could lose 40 percent of the business for this part at once. Our loss of this volume from Huffy would mean our fixed manufacturing costs would apply to fewer parts, and the cost of the remaining parts produced would go up. This would allow the foreign parts producers a higher volume of production, and in turn their costs would go down.

If the pending subzone application is approved, there is no question that Huffy would enjoy and immediate dollar gain and create a few more jobs at their Celina facility. These jobs would be taken from parts manufacturers such as ourselves and other smaller bicycle manufacturers who would be displaced in the marketplace as a result of Huffy's increased use of imported parts and its ability to further increase the 40 percent domestic market share it now has. Consequently, we would see more parts for American-assembled bicycles being manufactured in Taiwan, Korea, Japan, India and China, instead of the United States.

Huffy Corporation *doesn't need to back the domestic parts manufacturers in a corner* for corporate gain, as they are already in a sound business position, as stated in Huffy's News Release of April 14, 1983, per copy attached, as Exhibit III. This Release announced the closing of their Ponca City, Oklahoma plant at an estimated closing cost of $4.4 million on an after-tax basis, which would bring about an estimated annual fixed cost savings of $4 million due to this plant consolidation.

This Release also advises Huffy will have an after-tax gain of $2.8 million on a sale of West Coast property. In a year's time, they will come out over $2 million ahead by the consolidation. Mr. Shaw, Huffy's President and Chief Executive Officer, stated in this very same News Release, and I quote, "Although the current economy has had a significant impact on Huffy Corporation, we remain financially strong and well positioned in businesses which we believe will have good future growth. . . . We are well positioned to serve the mass merchants with our Huffy® brand and private label bicycles. Huffy® is the leading brand name in the United States by better than a 2 to 1 margin. We are also positioned to serve the requirements of the speciality bicycle shops with our well known Raleigh® brand bicycles." These specialty shops, for the most part, sell higher priced imported bicycles. Over the past 15 years there has been no significant change in imports of bicycles which

have averaged 25 percent of the domestic market. With the addition of the Raleigh brand bicycles, Huffy's dominant share of the domestic market should increase.

In summary, we urge your support of H.R. 657 to give our company, our jobs and our industry a fighting chance for survival.

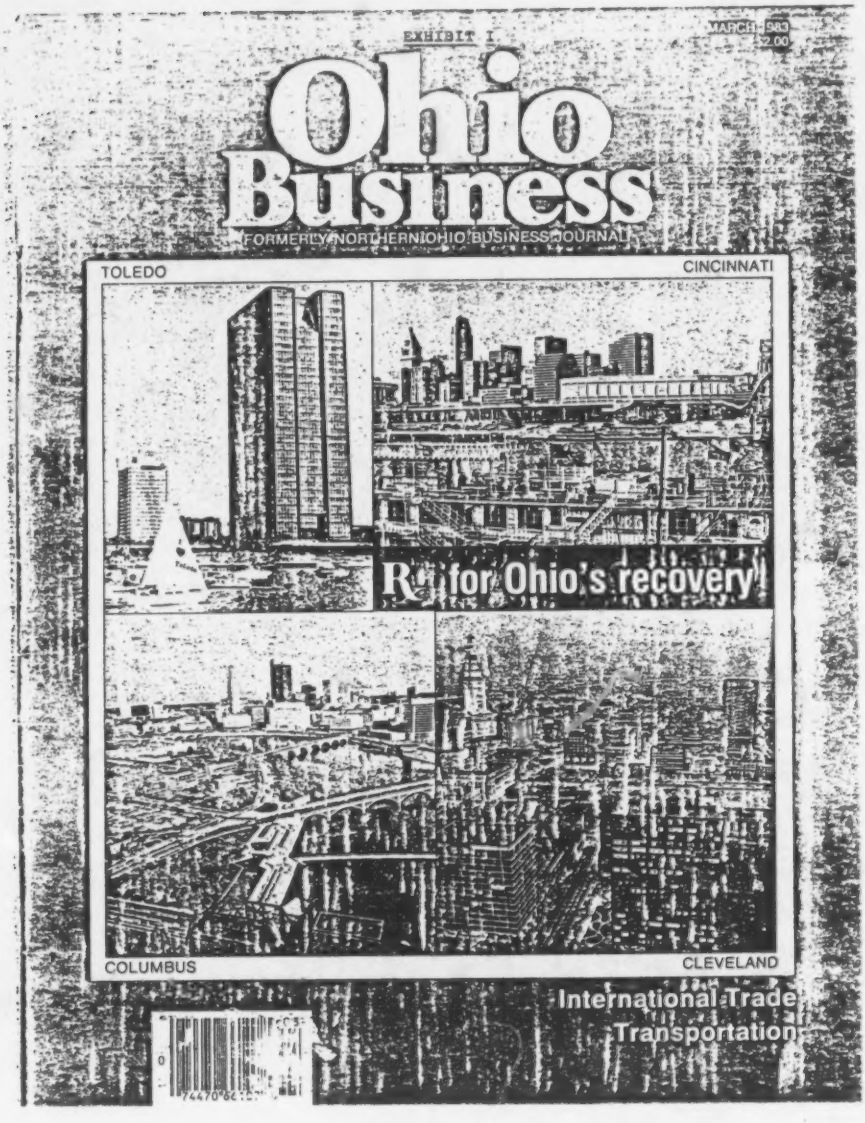
H.R. 657: *Will maintain* the present carefully balanced tariff schedules between the domestic bicycle and parts manufacturers; *will maintain* the Duty Suspension Bill passed by Congress which allows Huffy to import duty-free virtually any bicycle part not manufactured domestically; and *will allow* Huffy the benefits of exemption from duties carried by subzones when the end product is actually exported.

Subzone status without H.R. 657: *Will not* produce substantial increase in export trade; *will not* be beneficial for the domestic bicycle industry, as once the domestic parts manufacturers are gone, the foreign parts manufacturers can inflate their prices and/or withhold their products. Thus, the survival of the U.S. bicycle manufacturers would be at the mercy of the foreign manufacturers; and *will destroy* many American bicycle parts manufacturers and their employees' jobs, snowballing to include the American bicycle manufacturers, and in the next 5–10 years, destroying over 10,000 U.S. jobs including support industries such as steel, fasteners, paper, shipping, etc.

In recognition of these facts, 12 U.S. parts manufacturers and 8 U.S. bicycle manufacturers have also filed in opposition to Huffy's application. We are attaching a summary of these and other comments as Exhibit IV. It is important to note that only one parts manufacturer and no bicycle manufacturer other than Huffy has filed in support of Huffy's application. The Cycle Parts and Accessories Association has filed in opposition to Huffy's application and has submitted written testimony with this Subcommittee in favor of H.R. 657. The Bicycle Manufacturers Association has taken no position on Huffy's application for subzone or this bill.

Therefore, for our entire industry, we sincerely urge your favorable report on H.R. 657.

Thank you.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Keeping Huffy fit

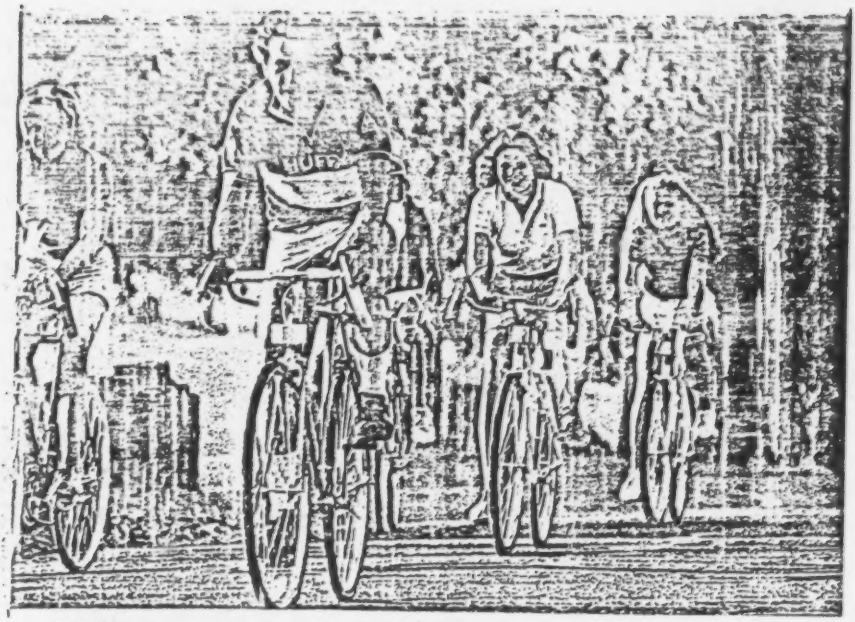
That's the job of Harry A. Shaw III, president and chief executive officer of Huffy Corp.

By Lys Ann Shore

Back in 1928, when the Huffman Manufacturing Company of Dayton was founded, words like 'fashion' and 'performance' weren't generally associated with bicycles. But today at Huffy Corp. (the name was changed in 1977), fashion and performance are two of management's top priorities. Huffy is this country's largest manufacturer of bicycles, with a current domestic market share of 40 percent. And Huffy intends to keep its leadership position in the industry, through aggressive market positioning and new product development.

With executive offices in Miamisburg, Huffy operates manufacturing facilities in Celina, Ohio (near Dayton); Ponca City, Oklahoma; and Milwaukee, Wisconsin. Late last year, the company closed its bicycle manufacturing plant in Azusa, California.

The U.S. bicycle industry boomed



for half a century, doubling every decade from the 1920s through the 1970s. That translates into a growth rate of 7 percent compounded annually. Huffy Corp. grew with the industry. But with the 1979-80 season, a downturn began that has continued right through the end of 1982. "Last year," says Harry A. Shaw III, Huffy's president and chief executive, "the industry was down 26 percent. But we feel some recovery is taking place now, and our projection is that the industry will jump back over the course of 1983."

In spite of the recession, the 1981 spring season was strong. Spring demand normally outpaces the manufacturer's production capacity. Accordingly, Huffy geared up for a similarly strong season in '82—which never materialized. Weak sales left Huffy overstocked; as a result, the company slashed its production levels during the second half of 1982 in order to reduce inventory.

The corrective seems to have worked: Some 500 employees were called back to Huffy plants in January, and production has recovered to about 75 percent of capacity.

Some of the blame for the slow season is placed on mass market retailers. As Shaw explains, "Bicycles sell well when they're advertised, and the mass merchants were spending their advertising dollars on electronic video games rather than bicycles. The effect of that competition was felt in both the spring and fall seasons in 1982."

At present, Huffy is moving cautiously into the 1983 spring selling season. "We are intending to build some inventory this spring," Shaw says, "but we won't build it up to last year's level."

As a direct result of the 1982 cutbacks, Huffy registered losses for the first two quarters of its current fiscal year (which began July 1, 1982). Losses totaled $1.6 million, or 40 cents per share, in the first quarter, and $1.7 million, or 43 cents per share, in the second quarter.

It seems clear that the phenomenal growth of the past half-century will not return the bicycle industry, and manufacturers and suppliers have begun to reassess their role within the industry. As Shaw puts it, "The industry still has growth in it but we would not anticipate a return to earlier growth rates."

For Huffy, rethinking has already led to action. The company has signed an agreement with TI Raleigh Industries Ltd. of Great Britain which gives Huffy the exclusive right to manufacture and sell the well-known Raleigh line of bicycles in the United States.

The agreement opens a new market to Huffy, the specialty bike shops. Huffy's share of the domestic bicycle market until now has remained entirely within the mass-market retail segment (which

(continued on page 53)

forms 75 percent of the total domestic market). Facing the prospect of sluggish growth in the industry, Huffy saw expansion into another area of the market as the doorway to continuing growth for the company. "We might be able to increase our share of the total market," Shaw muses, "but that would be difficult and expensive. On the other hand, the specialty bicycle market is 25 percent of the total market, and we have not had access to that before."

The Raleigh connection was right for Huffy, Shaw explains, because of Raleigh's reputation in this country for high-quality, high-performance bicycles. Raleigh, which had once had manufacturing facilities in this country, had abandoned production here in favor of just a distribution system. "Raleigh dealers have been excited by our ideas for sprucing up the design and marketing of the product," says Shaw. Huffy has not yet begun to manufacture the Raleigh line.

BMX racers boost image

In another move to increase its penetration and visibility in what might be termed the "upscale" bicycle market, Huffy Corp. has begun sponsorship of a professional bicycle racing team.

Bicycle Motocross (BMX) racing is one of this country's fastest growing sports, with about 400,000 participants. It began as a West Coast fad as early as 1973 and uses single-speed bikes on dirt tracks.

The BMX grand national meet was held last Thanksgiving in Oklahoma City with participants from 22 countries. Among them was the Huffy BMX Racing Team, including John Piant who was the 1982 winner of the Anglo-American BMX Championship held in England.

The team promotes Huffy's products as well as its image, since Huffy produces a whole line of Motocross bicycles. As Shaw points out, "Until we got involved in this sport a Huffy bike was looked on as an ordinary bike you'd get at a discount store. The racing team increases our credibility because our bikes are now seen as winners." The BMX team has had the greatest effect, Shaw says, on "a whole new group of people who have become very sophisticated about bikes"—the eight- to fourteen-year-old set.

Huffy expects BMX racing—and its own Motocross bicycles—to continue to gain in popularity. And Huffy has a tradition of right guesses about trends. In the late '60s, Huffy was the first manufacturer to begin producing the high-rise bikes (Remember them, with banana seats and handlebars you had to stretch for?) that West Coast bicycle shops were customizing. The basic idea was to make bikes look like motorcycles, so Huffy began to develop tires and other features to suit the new look.

In the early '70s, young adults discovered bicycling in the form of the ten-speed lightweight bike. "Prior to 1971, we were shipping about 5 percent of our line in lightweight bikes," Shaw recalls. "By 1973 that figure had risen to 60 percent.

"In 1971, the lightweight bike was black or dark green, and one looked a lot like another. By 1973, we had revolutionized the industry with our Scout, a color-coordinated yellow bike. Ever since then, that's the way the industry has gone."

As a testimony to the fashion edge achieved by Huffy, Shaw cites figures: Huffy's 1972 market share of 22 percent, compared to today's 40 percent; the product line of some 40 models which in the past decade has risen to about 60 different models.

Facing import pressures

Treating bicycles as a fashion business also helped Huffy in the import arena. "Importers weren't geared to the concept," says Shaw. "They would copy us a year or two late." Imported bicycles, which in 1972 accounted for 37 percent of the U.S. market, declined to about 20 percent.

Now, however, renewed pressure from imports is severe—and, some say, unfair. Shaw explains it this way: "In the '70s, the importers (Taiwan, Japan, and European countries) turned to supplying the specialty bicycle shop market with high-priced products. Since 1980, however, because of the slow international market and the increasing dominance of mass marketers in this country, the importers have come back into the market with what we feel is predatory pricing." The Bicycle Manufacturers Association recently asked the International Trade Commission to investigate possible dumping of bicycles by Taiwan and Korea. The commission has decided that the case of Taiwan warrants further investigation.

Interestingly, the export market for U.S. bicycle manufacturers is practically nil. In 1982, this country exported a total of only 50,000 bikes. (By comparison, the U.S. imported an estimated 1.7 million bicycles in 1982). According to Shaw, "Almost every country in the world has a domestic bicycle business. There are protective barriers set up almost everywhere we ship." A strong U.S. dollar, of course, just makes a hard job tougher.

Huffy has broadened its horizons to include businesses it sees as complementing the bicycle business. Bikes aren't just for play or transportation any more; instead, they form part of our national craving for physical fitness. Fitting into the fitness boom are Huffy's other endeavors which include backboards for basketball hoops (of which Huffy is the largest manufacturer in the country), exercise bicycles (of which Huffy holds a market share of better than 10 percent, thanks to a 1978 acquisition), as well as weight benches and home fitness centers. The latter two items formed part of a California company whose assets Huffy acquired last year. Huffy is moving production of the items to its Milwaukee plant and plans to market them under the Huffy name.

Rowing machines and a new line of exercise bicycles are being added to the product line this season.

"We see home physical fitness as a high-growth industry," comments Shaw, who views the trend as a reflection of the young adult population trying to delay the aging process.

Huffy's moves into higher-growth businesses which complement its bike business have been partly funded by the company's divestment last year of its auto-related division which had manufactured gasoline containers and automotive service equipment at a facility in Delphos, Ohio. ■

EXHIBIT II

Executive Secretary
Foreign-Trade Zones Board
International Trade Administration
U.S. Department of Commerce
14th Street and Pennsylvania Ave., N.W.
Room 1872
Washington, D.C. 20230

COMMENTS OF

WALD MANUFACTURING COMPANY, INC.

TO

DOCKET NO. 21222-257,

PROPOSED AMENDMENTS TO

FOREIGN-TRADE ZONES BOARD REGULATIONS

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I. INTRODUCTION OF WALD MANUFACTURING COMPANY

Wald Manufacturing Co., Inc. ("Wald") has manufactured bicycle parts since 1905. Wald has been located in Maysville, Kentucky since 1924. Both the bicycle and bicycle component parts industries are very import sensitive. Congress has carefully balanced the import sensitivity of each industry by imposing tariffs on bicycle component parts which are calculated, on a weighted average basis, to give preference neither to imported bicycles nor to imports of component parts. A pending subzone application (Docket No. 17-82) before the Foreign-Trade Zones Board (the "Board") for a bicycle manufacturing and assembly subzone would totally destroy that balance. Wald has therefore filed comments in opposition to that subzone application.

II. GENERAL COMMENTS ON THE ZONE PROGRAM AND THE POLICIES REFLECTED IN THE PROPOSED REGULATIONS

As specifically invited in the proposed rule published by the Foreign-Trade Zones Board at 48 Fed. Reg. 7188 et seq. (February 18, 1983), Wald would like to take this opportunity to comment generally on the criteria which the Board should consider in evaluating applications for subzones. Basically, Wald believes that subzones, creatures solely of regulations, should be approved only when the applicant has convincingly established: (1) that such approval will further the basic purpose of zones under the Foreign-Trade Zones Act (the "Act"), that is, to expedite and encourage foreign trade; and (2) that the net benefit of such approval to the proposed subzone operator significantly outweighs the

sum of any adverse consequences for other domestic companies (whether competing or supplying) and their employees.

A. Summary History of the Foreign-Trade Zones Act

The recent proliferation of subzone approvals (and of manufacturing activities in zones) has received repeated criticism in scholarly journals as falling far outside the original legislative purpose of the Act. As originally enacted in 1934, the stated purpose of the Act was to encourage and expedite foreign trade.[1] This purpose was to be accomplished "by expediting the passage of goods from an exporting foreign country, through the medium of the zone located in the intermediary country, to the importing country... by minimizing the disincentives of customs duties and attendant procedural formalities on goods which are only temporarily in an intermediary country and destined for re-export."[2] As the Act was originally enacted, manufacturing was not allowed in a zone. The decision not to allow manufacturing was purposeful and consistent with legislative intent that the zones not be used to avoid tariffs to the detriment of domestic manufacturers and their employees.[3]

In 1950, the Act was amended to allow manufacturing in zones.[4] The consensus seems to be, however, that this amendment was perceived as a technical one, intended to eliminate administrative confusion over the distinction between "manipulation," allowed under the 1934 Act, and "manufacturing," which was not allowed, and not as a substantive policy reversal. "Throughout the congressional debate and

hearings there was an implicit belief that the limited space available for Zones would act as an inherent brake on manufacturing operations in Zones."[5] Perhaps in part because the amendment was perceived as merely technical in nature, the 1950 amendment did not generate substantial business interest in the form of zone applications.[6]

In an effort to stimulate business interest generally in zones, in 1969 the Board promulgated a regulation permitting specialized noncontiguous "sub-zones."[7] The subzone regulation "completely emasculated the inherent space limitations in Zone operations."[8]

B. Failure of Subzones to Achieve the Purposes of the Act

As pointed out earlier, subzones and extensive manufacturing in zones have been criticized as at least questionable, if not counterproductive, insofar as achieving the purposes of the Act. As stated in one legal journal:

> neither extensive manufacturing in Zones nor sub-Zone regulation generate the direct public benefit apparently contemplated by the statutory scheme. Although Zone manufacturing creates a local benefit by increasing employment demand, such an increase is necessarily motivated by a concomitant desire to avoid customs duties.[9] Also, the sub-Zone regulation would not appear to possess even the redeeming feature of increased business activity.[10]

In the same article, the author goes on to state that "[t]he sub-Zone device is primarily acquired by ongoing operations that do not basically change upon reciept of the sub-Zone grant. * * * Therefore,...foreign trade is not expedited or encouraged and the only result is the avoidance of some

customs duties by the Zone-based operation."[11] Indeed, "[i]n 1969, the U.S. Tariff Commission proposed that the Act be repealed because manufacturing operations in zones served 'solely to avoid higher duties applicable to the imported materials' and because it had 'not given rise to the type of commerce for which it was designed.'"[12]

This criticism is especially important when one considers the recent proliferation of manufacturing and assembly in zones and subzones.[13] The value of shipments into U.S. zones and subzones in the past decade has burgeoned similarly, from just over $100 million to over $3 billion.[14] Most alarmingly, "74 percent of the merchandise shipped to U.S. FTZs in 1980 was subsequently imported into U.S. Customs territory,"[15] most of it at a lower tariff rate as the result of tariff classification changes resulting from manufacture or assembly in the zone.

The fact is, no one knows how much the recent shift toward manufacturing and assembly in zones and subzones is costing the United States in lost revenues whether directly, in the form of customs revenues deferred or foregone, or in indirectly, due to displacement of U.S. manufacturers and their employees by increased importation of component parts. The General Accounting Office was "conducting a self-initiated review of zones to see whether...[zones] are fulfilling the intent of the...Act. [The]...report...[was to] focus on the proliferation of sub-zones and the changes in tariff classifications that result from manufacturing and assembly

occurring in zones."[16] Unfortunately, that report was never finished, due at least in part to insufficient information. However, the preliminary conclusion of the report was that "zones give foreign manufacturers an unintended advantage over U.S. manufacturers of the same kinds of merchandise."[17]

The question of what net benefit accrues to the United States from manufacturing and assembly in zones and subzones is not easy to answer. As explained in one article, there is a net benefit from such activities if, for some reason, U.S. production has been:

> unable to produce satisfactory substitutes for foreign imports. In these cases, the incentives...[a zone] offers for manufacture and assembly could improve the U.S. balance of trade by increasing the domestic value and reducing the foreign value of imports. In other instances, however, firms use zones merely to avoid quotas and duties and to make foreign merchandise more competitive in the U.S. market.... To this extent, the use of zones harms the U.S. balance of trade.[18]

What disturbs this commentor most is that no one at the Board seems to be asking what net benefit accrues to the United States from manufacturing and assembly activities in zones and subzones. Rather, the presence of a net benefit seems to be presumed, as shown by the proliferation of approvals of such activity.[19]

III. COMMENTS ON THE PROPOSED REGULATIONS

A. General Comments

The summary to the proposed regulations states that the amendments are intended "to simplify and update the regulations

so that they reflect contemporary zone practice as it has evolved through interpretations and actions by the Board and the Customs Service." While this commentor applauds the Board's determination finally to put into writing that which apparently has been in force and effect for some time, that applause is limited to the "better late than never" principle. Given the criticism set forth earlier concerning the creation of subzones wholly by agency action, without any legislative directive, it seems apparent that, rather than establishing criteria for subzones, the Board should first investigate whether and when subzones further the purposes of the Act. Until that issue is settled, any authorization of subzones (at least where the applications are opposed) is inappropriate and, perhaps unlawful.

Because of this commentor's concern with the proliferation of manufacturing and assembly activities in zones and subzones, these comments are limited in their scope to the impact of these proposed regulations when applied to applications where manufacturing or assembly in the zone or subzone are the primary purpose of the application.

B. Comments on "Background"

In the section marked "Supplementary Information: Background," sweeping assertions are made which seem to reflect a generalized belief that zone or subzone manufacturing or assembly activities are always beneficial. Based upon various oral and written statements and decisions by the Board, such assertions hopefully do not accurately reflect

such a belief on the part of the Board.

For example, the statement is made that:

> Zones...have as their public policy objective the creation and maintenance of employment through the encouragement of operations in the United States, which for Customs cost reasons, would otherwise have been carried on abroad. The objective is furthered when zones assist exporters or re-exporters, or when goods arrive from abroad in an unfinished condition for processing here rather than overseas. (Emphasis supplied.)

The language emphasized above is not necessarily true. Its fallacy lies in its assumption that there are only two possible alternatives: importation of fully manufactured and assembled goods, or importation of component parts to be assembled into finished goods in the zone (or subzone). Two additional alternatives are ignored: domestic manufacture and assembly of all parts and of the finished product, or domestic assembly of the finished goods out of a combination of imported and domestically manufactured parts. This type of generalization is dangerous because it seems to ignore the significance of domestic parts and materials suppliers in an assessment of whether or not the zone or subzone is fulfilling the stated objective: creation and maintenance of domestic employment. An application can be said fairly to have met this objective only when all of the following questions have been answered. First, what will the impact of the proposed activities be on domestic industries, including domestic competitors as well as domestic parts or materials suppliers? Second, will the proposed activities result in a

decline in imports or will they merely allow the zone or subzone user to gain a larger proportion of the domestic market through the use of more imported parts? Third, are the proposed activities less or more labor intensive than the activities which will be displaced? Fourth, are the anticipated local employment benefits of the proposed zone or subzone use clearly in excess of the total negative U.S. employment results? Finally, has Congress or the administrative branch expressed a clear policy with relation to any particular industries which would be undermined by the proposed activities (such as where Congress has intentionally established an inverted tariff structure, where GSP status has been denied for the very items which would benefit from the zone or subzone activities, or where dumping or other anticompetitive activities have been determined to exist)?

Periodically throughout the proposed rule, references are made to opposition by or impact of manufacturing activities upon "competing domestic industries" (Emphasis supplied). These phrases should be rewritten to reflect the necessity of Board consideration of proposed activities on all domestic industries, whether competitors or suppliers. This commentor suggests replacing the phrase "competing domestic industries" with "adversely affected domestic firms" and adding language to clarify that domestic suppliers as well as competitors are included in that phrase.

B. Comments on Proposed § 400.101

In order to clarify continuation of the Board's present authority to condition approval of subzone applications upon

the user's declaration of (designated) foreign merchandise as "privileged foreign merchandise" and therefore subject to customs duties at the tariff applicable to the original foreign material brought into the subzone at the tariff rate then in effect, the following language should be deleted:

> The usual formal Customs entry procedures and payment of duties is not required on the foreign merchandise unless and until it enters Customs territory for domestic consumtpion, in which case the importer has a choice of paying duties either on the original foreign material or the finished product.

The following language should be inserted in its place:

> The usual formal Customs entry procedures and payment of duties are not required on the foreign merchandise unless and until it enters Customs territory. Unless the Board requires that the foreign merchandise be accorded privileged foreign status at the time it enters the zone or subzone, the importer will have the choice, at the time of entry of the foreign merchandise into Customs territory, of paying duties either on the original foreign material or the finished product.

C. Comments on Proposed § 400.200

This section should be clarified to show the Board's authority regarding users of zones and subzones, as well as the actual grantees. Thus, the initial sentence of § 400.200 should be rewritten as follows (deleted material is crossed out, inserted material is underlined):

> The Board is authorized, subject to the provisions of the Act, and other laws of the United States applicable to zones to take all actions which are necessary, ~~and~~ including actions as to zone grantees, operators or users, to:

Similarly, subsection (i) should be rewritten as follows:

> (i) Revoke the grant of any ~~corporation~~ grantee, or the authority of any operator pursuant to any zone or subzone grant to carry on activities pursuant to such grant, after due notice and a public hearing, for repeated ~~and~~ or willful violations of the Act.

D. Comments on Proposed § 400.302

The purpose behind proposed § 400.302 is unclear to this writer, unless it is to eliminate the present requirement that a zone or subzone applicant (where a zone project has already been approved for a port of entry) establish that the existing zone project will not adequately serve the convenience of commerce. No policy or justification is given for doing away with this requirement. The purpose of the requirement -- to maximize the use of zone space for appropriate activities without creating unnecessary demands on (admittedly scarce) Customs resources -- remains valid. Therefore, the requirement should be retained.

Some read the present law and regulations as requiring an applicant to establish that no existing project will adequately serve the convenience of commerce vis-a-vis the particular zone usage contemplated. If that reading is correct, then the change proposed at § 400.302 is, in fact, unauthorized and illegal.

Subsection (a) purports to limit this loosening of standards to "additional projects under separate grantees (other than those provided for in § 400.301)." However, this limitation is without practical effect, as subzone applications already are filed at least technically by

present zone grantees. Discussion of subzone applications is appropriate at subsection (a) because the proposed definition of "zone" at § 400.101 states that the term "zone" "might as a general term include 'subzone'." This commentor must therefore assume that subzones might be considered to be "additional projects." This ambiguity could be corrected by deleting the language at § 400.101 defining zone as a term that "might as a general term include subzone" and instead specifying, at each place in the proposed regulations where the term zone is intended to include subzones, that intent. Similarly, at § 400.302(a) the terms "zone project" and "additional projects," each of which is an undefined term, should not be used unless those terms are defined.

Subsection (b) similarly seems to attempt to remove the present requirement that: (1) a subzone be "adjacent" to the sponsoring grantee's zone; and (2) a subzone applicant establish that the existing zone (or zones) will not adequately serve the convenience of commerce. This provision therefore does away with the protection built in at §§ 400.400 and 400.807 regarding the "public interest." Any need to show "public interest" can be avoided simply by having the subzone applicant be a present zone grantee who captions its application as an "application for an expansion or boundary modification," rather than a subzone application. Since subzones are definitionally "considered noncontiguous extensions of zones for single users," (§ 400.101(b)) and yet § 400.302(b) refers to the "wish" of a "zone grantee... to expand its

zone to a noncontiguous site or sites" as being appropriately treated by means of an application for an expansion or boundary modification, and since subzone applications are always filed by zone grantees, this proposed regulation creates a means for any zone grantee to avoid the "public interest" determination which would otherwise be required were the application called a subzone application. The adjacency requirement established at § 400.303 could similarly be evaded. This section therefore should be rewritten to prevent such technical avoidance of important criteria.

E. Comments on Proposed § 400.303

No rationale is given for the liberalization of the adjacency requirement for subzones. Rather, it is simply stated that subzones are of a "special nature" and therefore a more distant location may be considered "adjacent." This type of conclusory statement begs the question, which is "what is the purpose of an adjacency requirement?" Only where this purpose is shown to be inappropriate to a particular fact situation should the requirement be loosened. One purpose for the adjacency requirement (which is, by the way, not merely a regulatory requirement but is also a statutory requirement, see 19 U.S.C. § 81(b)(a)) is the need for adequate Customs supervision. The loosened requirement would allow a subzone so long as it was located "within 90 minutes driving time, as measured by a Customs officer, from the supervising Customs office." This requirement is further loosened by the fact that the "adjacent port of entry" need

not be the port of the sponsoring grantee. Thus, a geographically distant grantee could claim the adjacency requirement was met based on the location of the port of entry operated by a totally different grantee. Yet it would seem obvious that the community most affected by a subzone would be that community where the subzone is to be located. The public corporate grantee of a geographically adjacent port of entry is much more likely to reflect the wishes of the local community than is a geographically distant grantee. Furthermore, an adjacent grantee is more likely to have ongoing contacts with the zone user/operator sufficient for the grantee to adequately assess whether the operator is abiding by the terms of the operating agreement with the grantee.

F. Comments on Proposed § 400.400

While this commentor applauds the inclusion of specific public interest criteria advanced at § 400.400, and particularly by cross reference to § 400.807, certain changes should be made to make these criteria more generally inclusive and, at the same time, more precise as to exceptions to those criteria. Thus, at § 400.400(b), the following new language should be added after "§ 400.807": "For purposes of these regulations, the term 'manufacturing' shall include assembly operations." It seems that this term is presently intended to be included by implication in the proposed regulations. However, to avoid potential future confusion over or dilution of this intent, the intent should be express.

Subsection (e) of § 400.400 should be deleted. The creation of an irrebuttable presumption that proposals

"exclusively for export...are in the public interest" is unwarranted. It totally denies the possibility that domestic suppliers may be harmed by such proposals. Such harm has been demonstrated with regard to specific applications. Only if the net employment and trade benefits from increased exports outweighs the anticipated detrimental impact upon domestic industries, including suppliers, should the application be granted. In any event, all persons and firms likely to be affected by proposed zone activity should be allowed to present evidence of such benefit or harm to the Board. Indeed, such an expedited process cannot withstand judicial scrutiny. The Act requires that the Board make findings, prior to granting any application for a zone or a subzone, as to whether: (a) the proposed plans are suitable for accomplishing the purposes of a foreign-trade zone, and (b) the proposed facilities and appurtenances are sufficient. See 19 U.S.C. § 81g. A basic tenet of the District Court's decision in Armco Steel Corp. v. Stans, 303 F. Supp. 262 (S.D. N.Y. 1969), aff'd, 431 F.2d 779 (2d Cir. 1970) was the court's finding that the Board's order was "based on substantial evidence." 303 F. Supp. at 271. The expedited procedure proposed at § 400.400(e) would not provide for such substantial evidence.

If the Board disagrees that deletion of the expedited procedures proposed at § 400.400(e) is the appropriate course, at the very least any grant pursuant to these expedited procedures should be required to be restricted in

nature to insure that all merchandise shipped into a zone or subzone established pursuant to such a grant is in fact re-exported, and neither consumed in the zone or subzone nor entered into the Customs territory of the United States, whether in its original form or as a component of manufactured or assembled merchandise. Finally, a procedure should be established for expedited review of any complaint that merchandise is not in fact being re-exported from a zone or subzone established pursuant to such an expedited grant.

G. Comments on Proposed § 400.605

At subsection (a) of § 400.605, the following language should be deleted:

> called for in the various exhibits may be condensed and reference may be made to information in the original application.

The following language should be inserted in its place:

> called for in the various exhibits which is duplicative of and unchanged from information contained in the original application may be submitted in condensed form or by reference to the original application.

All other required information naturally should be provided in the same format and specificity as would be contained in an original application for grant of authority.

H. Comments on Proposed § 400.700

At subsection (a)(6) of § 400.700, language should be added to clarify that the Board's authority to declare a grant of authority null and void for failure of a grantee to comply with any of the conditions of the grant is in addition

to all other actions which the Board may be authorized to take in such circumstances.

I. Comments on Proposed § 400.807

Subsection (a) of § 400.807 should be clarified by changing the fourth sentence as follows:

> In deciding whether good cause exists special consideration shall be given to conducting investigations when the zone activity in question ~~involves~~ affects an "import sensitive" industry.

Impact of activities in a zone or subzone on "import sensitive" industries should similarly be listed as a factor to be considered by the Board at subsection (b) of § 400.807. We therefore suggest that the following new subsection (b)(6) be added:

> (6) Whether any domestic industry, including domestic suppliers, likely to be affected by a zone activity is an "import sensitive" industry.

For the same reasons set forth in our comment on proposed § 400.400(e) above, subsection (d) of proposed § 400.807 should be deleted. Because of the potential adverse employment and economic effects of zone or subzone manufacturing activities upon domestic suppliers, an absolute presumption of zone activity as being in the public interest, simply because it is for export, is unwarranted.

J. Comments on Proposed § 400.1201

The Board should have the authority not only to revoke a grant (for repeated or willful violations of the Act) but

also to declare the grant null and void. In this manner, once the Board establishes, after a hearing, that the violations in fact occurred, the Board can prevent a grantee or operator from keeping the benefits it may have obtained by means of such violations.

K. Comments on Proposed § 400.1304

Due to the fact that subzone applications are for the benefit and "private" use of the subzone beneficiary or operator, all notices of applications for the establishment of subzones published in the Federal Register should prominently identify such beneficiary or operator and the activities to be conducted at the subzone. This will be much more likely to alert potentially affected persons or entities to the application than will categorizing such application under the name of the sponsoring grantee, especially in the case of geographically distant sponsors.

Furthermore, given the "private" nature of subzones and their benefits, each proposed beneficiary of an application for a subzone should be required to provide the Board with a list of names and addresses of domestic suppliers who have supplied the beneficiary company within the 12-month period preceding the application filing date, as well as of any other domestic suppliers or competitors of whom the beneficiary company has actual knowledge. Then, the Board should be required to mail a copy of the notice of application to each listed company at the address shown.

L. Comments on Proposed § 400.1309

For the same reasons set forth in our comments on proposed §§ 400.400(e) and 400.807(d) above, the exemption of manufacturing activities for export purposes from public interest determinations, as proposed at subsection (c) of § 400.1309, is unwarranted. Therefore, the first sentence should be rewritten as follows:

> (c) If the proposed manufacturing operation involves a product that has been the subject of a past complaint resulting in restrictive Board action, or involves an "import sensitive" industry, the proposal shall not be approved without the concurrence of the Board, ~~unless the manufacturing is for export only~~.

END NOTES

[1]H.R. Rep. No. 1521, 73d Cong., 2d Sess. 1 (1934)

[2]Note, "Foreign-Trade Zones: 'Everything Except the Customs'?," 31 Univ. of Fla. L. Rev. 725,728 (1979)

[3]Id. at 729, citing Hearings on H.R. 4726 and H.R. 9206, Before the Subcommittee of the House Committee on Ways and Means, 72nd Cong., 2d Sess. 12 (1933)

[4]The "Boggs Amendment," 64 Stat. 246 (1950), as amended, 19 U.S.C. § 81(c)

[5]Note, supra note 2 at 753 n. 244

[6]Note, "Foreign-Trade Zone Manufacturing: The Emergence of a Free-Trade Instrument," 9 Va. J. Int'l. L. 444, 454 (1969)

[7]15 C.F.R. § 400.304 (1980)

[8]Note, supra note 2 at 753 n. 244

[9]The court in Armco Steel Corp. v. Stans, 431 F.2d 779 (2d Cir. 1970) specifically recognized that a sub-zone user may use manufacturing in a zone to avoid otherwise applicable customs duties.

[10]Note, supra note 2 at 737

[11]Id., 753 n. 244

[12]Note, "U.S. Foreign-Trade Zone Manufacturing and Assembly: Overview and Update," 13 Law & Policy in International Business (1981), 339,375 n. 297

[13]Proposed Rule, 48 Fed. Reg. at 7189 (1983), stating that, within "the past decade, the number of ports per entry with zone projects has grown from 10 to 75."

[14]Id.

[15]Note, supra note 12 at 339-340

[16]Id., 340 n. 13

[17]Id.

[18]Id. at 379

[19]For example, in 1977 only two subzones were in operation, attesting to 'their extraordinary nature.' DaPonte, "Foreign-Trade Zones: An Update," American Import/Export Bulletin, April, 1977, 195, 196. By 1980, fifteen sub-zones had been approved, all for manufacturing or assembly operations, with twenty-seven more applications pending.

EXHIBIT III

HUFFY

News Release

Please Reply to:
HUFFY CORPORATION
P.O. Box 1204
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HUFFY ANNOUNCES
BICYCLE PLANT CONSOLIDATION
AND GAIN ON SALE OF WEST COAST PROPERTY

Dayton, Ohio, April 14, 1983 - Huffy Corporation announced today the sale of its Azusa, California property for approximately $5.1 million, resulting in an after-tax gain on the sale of approximately $2.8 million. Huffy also announced that it plans to close its Ponca City, Oklahoma bicycle plant and move the majority of the machinery and equipment to the Company's Celina, Ohio bicycle production facility. The estimated cost of closing the plant and moving the machinery and equipment is $4.4 million on an after-tax basis. The sale of the California property, as well as the closing of the Oklahoma plant and the related movement of equipment, will be reflected in the Company's fourth quarter results.

With respect to the bicycle plant consolidation, Harry A. Shaw III, President and Chief Executive Officer, stated, "It was a most difficult decision to close our Oklahoma plant in light of the effects it has on our dedicated employees and the Ponca City community which has been very supportive. However, this action is necessary to enable the Company to operate more efficiently in the future. We estimate that approximately $4 million of annual fixed costs will be eliminated because of the plant consolidation. A major factor in reaching the decision to close the Oklahoma plant was the significant increase in the production capability which has occurred at our

Celina, Ohio facility over the past three to four years. Increased productivity through robotics and other manufacturing efficiencies implemented since 1979 combined with the transfer of equipment from our Oklahoma plant will enable us to close the Oklahoma operation with only minimal effect on our total overall bicycle producing capabilities."

Mr. Shaw continued by saying, "We believe that we have dealt with the problems that contributed to our operating losses over the past year in a manner that will benefit the Company and our shareholders over the long term. We have restructured our bicycle business so that we can reduce overall operating costs and at the same time meet the growing demands of the U.S. bicycle market. We are well positioned to serve the mass merchants with our Huffy(R) brand and private label bicycles. Huffy(R) is the leading brand name in the U.S. by a better than 2 to 1 margin. We are also well positioned to serve the requirements of the specialty bicycle shops with our well known Raleigh(R) brand bicycles."

Mr. Shaw added, "Our other businesses, juvenile products and physical fitness/sporting goods, are also well positioned to meet the expected high growth in their respective markets. Gerico, Inc., our newest addition, is a leading manufacturer in the juvenile products market under the popular Gerry(R) brand name. Our physical fitness/sporting goods business is continuing to grow as a result of the introduction of new products, including weight benches, rowing machines and a new line of exercise bicycles."

In conclusion, Mr. Shaw stated, "Although the current economy has had a significant impact on Huffy Corporation, we remain financially strong and well positioned in businesses which we believe will have good future growth.

In planning for this growth, we recently restructured our sources for short term borrowings by consummating a seven year $40 million credit agreement with our major lenders: Security Pacific National Bank, Citibank, N.A., Union Bank (Los Angeles, California), and Winters National Bank and Trust Company (Dayton, Ohio). This agreement replaces the majority of our short term open lines of credit. At the present time we are not borrowing under this new credit agreement, but it provides a vehicle to finance our future working capital needs and any acquisition opportunities which may occur as the Company expands and grows."

Barry J. Ryan
Treasurer

/hm

EXHIBIT IV

ANALYSIS OF COMMENTS
FILED WITH FOREIGN-TRADE ZONES BOARD
OPPOSING HUFFY SUBZONE APPLICATION

COMPANY	SUMMARY OF COMMENTS
1. Cycle Parts & Accessories, Inc. 122 East 42nd Street New York, NY 10168 Trade association of bicycle parts manufacturers	- Increasing level of concentration within bicycle manufacturing industry - If Huffy is granted a subzone, it will drive some companies out of business, resulting in employment loss in U.S. parts industry that would far exceed any employment gain to Huffy. - Giving American jobs to foreign competitors. - Many domestic parts makers are major employers in communities where their plants are located. - If parts manufacturers suffer, so will their suppliers. - Adjacency requirement not met.
2. Wald Manufacturing Co. Maysville, KY 41056 Bicycle Parts Manufacturer	- Would result in immediate loss of jobs at their plant. Employment has already dropped from 411 (1973-74) to 201 today. - All parts not manufactured in the U.S. presently and imported duty free (42% of component parts.) Any benefit to Huffy would cause corresponding harm to component parts manufacturers. Exporting jobs. - Huffy is the largest U.S. bicycle manufacturer. (40% of the market.)
3. Congressman Carl D. Perkins, KY (D-7th) U.S. Representative	- Concern about impact on Wald Mfg. Co. - Serious adverse impact on employment. - Does not meet adjacency requirement.

COMPANY	SUMMARY OF COMMENTS
4. Senator Wendell Ford (D-KY) US. Senator	- Concern regarding employment at Wald Mfg. in Maysville, KY. - Giving American jobs to foreign workers.
5. Senator Walter Huddleston (D-KY) U.S. Senator	- Adverse impact on employment in Maysville, KY (Wald Mfg. Co.)
6. Excel, Inc. 9362 W. Grand Ave. Franklin Park, IL 60131 Bicycle Parts Manufacturer	- Have already had to lay off majority of employees; would probably be forced to close if subzone is granted. - Potential loss of up to 350 jobs in Franklin Park.
7. Signal Products Division of Amerace Corp. 3445 N. Kimball Ave. Chicago, IL 60618 Bicycle Parts Manufacturer	- Would be forced to close bicycle reflector plant; loss of at least 20-30 jobs. - Does not meet adjacency requirement
8. Congressman Dan Rostenkowski	- Concern for Excel Group and Signal Products Div. of Amerace Corp. - Granting of subzone could mean a loss of up to 350 jobs in Chicago. - Granting of subzone could cause elimination of Signal Products Division's reflector production plant.
9. Monogram/Ohio Rod Products P.O. Box 416 Versailles, IN Bicycle Parts Manufacturer	- Had 108 employees in 1980; now employs 68. Co. would have to close if subzone is granted.

COMPANY	SUMMARY OF COMMENTS
10. John Hill, Board President Town of Versailles, IN Public Official	- Concern for Ohio Rod Products, Div., largest manufacturer in community. Labor force has already dropped 37% since 1980, resulting in unemployment rates as high as 18% in the area.
11. Sun Metal Products, Inc. Box 1508 Warsaw, IN 46580	- Bicycle component parts are import sensitive. The current balance effected by the tariff schedules would be upset by granting the Huffy application. - Job increase in Celina, Ohio (if any) would be offset by loss of employment in Warsaw, Indiana.
12. Mayor Paul E. Hodges City of Warsaw, IN	- Concern regarding Sun Metal Products, major employer in the area. Would adversely affect employment.
13. National Bearings Company P.O. Box 4726 Lancaster, PA Bicycle Parts Manufacturer	- Detrimental impact on industry.
14. Congressman Robert S. Walker	- Adverse impact on National Bearings Company and its employees.
15. Messinger Manufacturing Co. P.O. Box 326, Durant Ave. Bethel, CT Bicycle Parts Manufacturer	- Employment has dropped from 250 full time to 100 on a 4 day a week basis. Would be further reduced by granting of subzone.

COMPANY	SUMMARY OF COMMENTS
16. Elrae Industries, Inc. 11035 Walden Ave. Alden, NY 14004 Bicycle Parts Manufacturer	- Detrimental effect on industry - Does not meet adjacency requirements. - Would increase U.S. unemployment.
17. State of New York Assembly Albany, NY	- Deleterious effect on domestic bicycle parts manufacturers' employment. Concerned for Elrae Industries, Inc.
18. Worksman Trading Corp. 94-15 100th Street Ozone Park, NY 11416 Bicycle Manufacturer	- Employs 50 workers, many from minority groups. Concerned that they may become unemployed.
19. American Cycle Systems 1449 Industrial Park Covina, CA Bicycle Parts Manufacturer	- Would decrease domestic employment
20. Mayor Henry M. Morgan City of Covina, CA	- Concern regarding American Cycle - Detrimental impact on employment in Covina.
21. Trek Bicycle Corporation P.O. Box 183 Waterloo, WI 53594 Bicycle Manufacturer	- Huffy already has a 40% market share. The subzone would increase Huffy's advantage over smaller manufacturers such as Trek.

	COMPANY	SUMMARY OF COMMENTS
22.	Schwinn Bicycle Company 1856 North Kostner Avenue Chicago, IL 60639 Bicycle Manufacturer and Parts Manufacturer; also Importer of Bicycles and Parts	- Huffy has failed to show the public interest would be served by grant of its application. - The proposed subzone is nonadjacent. - Huffy already has a 40% market share.
23.	B.M.X. Products, Inc. 9621 Irondale Avenue Chatsworth, CA 91311 Bicycle Manufacturer	- Huffy's market share is 40% - 170 employees - B.M.X. cannot utilize customs deferral techniques cost effectively due to small size.
24.	Scorpion Cycle, Inc. Chatsworth, CA 91311 Bicycle Manufacturer	- Huffy has enormous economies of of scale. - Grant of the subzone would threaten the company's survival.
25.	Carlisle Tire & Rubber Company (Division of Carlisle Corporation) P.O. Box 99 Carlisle, PA 17013 Bicycle Parts Manufacturer	- Loss of sales to Huffy hurt Carlisle's employment. (Loss of one million units equals a loss of approximately 43 jobs.) - Ripple effect on Carlisle's suppliers, which are all domestic companies. - Competition from imports has already forced Carlisle to lay off 180 employees since 1980.
26.	Hartford Bearing Company 951 West Street Rocky Hill, CT 06067 Bicycle Parts Manufacturer	- Any foreign trade zone hurts by increasing parts importation.
27.	Columbia Manufacturing Company Westfield, MA 01006	- Approval would be detrimental to Columbia and to the entire domestic bicycle market

COMPANY	SUMMARY OF COMMENTS
28. Ross Bicycles, Inc. P.O. Box 147 Rockaway Beach, NY 11693 Bicycle Manufacturer	- The company employs more than 350 workers at its Allentown, Pennsylvania facility. - Huffy already has a 40% market share. - Domestic parts suppliers will also be hurt.
29. Roadmaster Corp. (formerly AMF) Olney, IL Bicycle Manufacturer	- Approval of the subzone would further concentrate the industry. - Detrimental impact in employment at the Olny facility.
30. Richard G. Lugar U.S. Senator	- Approval of the subzone would have a significant detrimental impact on the small businesses that produce component parts. - Approval would temporarily strengthen Huffy, at the cost of undercutting domestic parts manufacturers in favor of foreign competitors.
31. Delaware Valley Foreign-Trade Zone c/o Norris, McLaughlin and Marcus 1081 Route 22 P.O. Box 310 Somerville, NJ 08876	- By not giving details regarding additional facilities proposed, Huffy's application does not comply with the requirements of 19 U.S.C. § 81f(a) and 15 C.F.R. § 400.600 et seq. - Huffy's proposed sub-zone may have a serious adverse impace on existing foreign-trade zones, particularly new ones which are still in their start-up phase (such as the Delaware Valley Foreign-Trade Zone). - More general availability of sub-zone status would produce substantial decrease in customs revenue. - Huffy's proposed sub-zone is not adjacent to a port of entry.

5-6-83

EXHIBIT V

PERCENTAGE OF IMPORT BIKE SALES TO TOTAL SALES
(annual units in millions)

YEAR	DOMESTIC SHIPMENTS	IMPORTS	TOTAL	% IMPORTS
1960	2.6	1.1	3.7	30%
1965	4.6	1.0	5.6	18%
1968	6.0	1.5	7.5	20%
1969	5.1	2.0	7.1	28%
1970	5.0	1.9	6.9	28%
1971	6.6	2.3	8.9	26%
1972	8.8	5.1	13.9	37%
1973	10.1	5.1	15.2	34%
1974	10.1	4.0	14.1	28%
1975	5.6	1.7	7.3	23%
1976	6.4	1.7	8.1	21%
1977	7.5	1.9	9.4	20%
1978	7.5	1.9	9.4	20%
1979	9.0	1.8	10.8	17%
1980	7.0	2.0	9.0	22%
1981	6.8	2.1	8.9	24%
1982	5.2	1.6	6.8	24%

(PAST 15 YEAR AVERAGE) 25%

The above figures compiled from Bicycle Manufacturers Association statistical information, per copies attached.

During the "bike boom" years of 1972, 73 & 74, imports took a larger share of the domestic market as the consumer demand shifted to light-weight models and the American manufacturers were not in a position to fully supply this demand.

The reverse applied to 1979 when the U.S. gasoline shortage caused a temporary surge in sales of bicycles and the importers were not able to supply this immediate demand.

Bicycle Manufacturers Association of America, Inc.
1101 15th Street, N.W., Suite 304
Washington, D.C. 20005
(202) 452-1166

SOME FACTS ABOUT TODAY'S AMERICAN BICYCLE MARKET

1. Annual Units in Millions: U. S. Manufacturers and Imports

Year	Domestic Shipments	Imports	Total U.S. & Imports	Bikes in Use*	Est. Users*
1960	2.6	1.1	3.7	23.5	35.2
1965	4.6	1.0	5.6	32.9	49.3
1968	6.0	1.5	7.5	42.3	63.4
1969	5.1	2.0	7.1	47.7	71.5
1970	5.0	1.9	6.9	50.0	75.3
1971	6.6	2.3	8.9	53.1	79.6
1972	8.8	5.1	13.9	61.2	91.9
1973	10.1	5.1	15.2	70.0 plus	100.0 plus
1974	10.1	4.0	14.1	75.0 plus	100.0 plus
1975	5.6	1.7	7.3	75.0 plus	100.0 plus
1976	6.4	1.7	8.1	82.0 - 89.0	100.0 plus
1977	7.5	1.9	9.4	84.0 - 91.5	100.0 plus
1978	7.5	1.9	9.4	90.0 - 95.0	105.0 plus
1979	9.0	1.8	10.8	95.0 plus	105.0 plus
1980	7.0	2.0	9.0	95.0 plus	105.0 plus

* Bikes in Use Estimate is based on a reasonable estimate bike "life" multiplied by a unit sales factor. Rentals and other multiple use situations are calculated into the Estimated Users estimates.

2. Estimated Units in Millions for 1981

Domestic	7.6
Imports	2.3
Total	9.9

3. Estimated Percentage of Lightweight Bike Sales to Total Sales

1969	12%	1975	58%
1970	17%	1976	50%
1971	25%	1977	54%
1972	50%	1978	62%
1973	70%	1979	59%
1974	74%	1980	56%

---

* BMA's formula for reaching a "ballpark" figure for the number of bicycles or bicyclists in a given area is as follows: BMA estimates more than 105 million cyclists in America, and 95 million bicycles. There are now 225 million Americans, according to the latest Census figures. Divide a geographical entity's (State, County, City) population into 225 million. The percentage figure realized can then be divided into bikes, cyclists for the area in question.

BICYCLE MANUFACTURERS ASSOCIATION

COMPOSITE SALES REPORT FOR DECEMBER 1982 - YEAR TO DATE

REVISED TO INCLUDE MONTHLY IMPORTS AND OTHER MANUFACTURERS ESTIMATE REVISION 2/10/83

Category	Coaster	%	3&3-Speed	%	5-Speed	%	10-Speed	%	12 or more Speed	%	Year To Date TOTAL	%	Last Year To Date TOTAL	%
Lightweights Boys 27"			12				171,041	70.8	70,459	29.2	241,512	5.1	387,077	6.1
Lightweights Boys 26"	8,018	1.1	62,448	8.2	324		601,570	79.1	88,001	11.6	760,361	16.0	1,070,339	17.1
Lightweights Boys 24"	128	.1	569	.6	1,061	1.1	91,953	91.5	6,738	6.7	100,441	2.1	144,358	2.2
Lightweights Boys 20"			385	100.0							385		1,542	
TOTAL BOYS	8,146	.7	63,414	5.8	1,385	.1	864,564	78.4	165,198	15.0	1,102,699	23.2	1,602,723	25.9
Lightweights Girls 27"							46,229	97.2	1,341	2.8	47,569	1.0	85,746	1.4
Lightweights Girls 26"	12,421	2.6	211,352	29.2	9,789	1.4	435,234	60.3	49,228	6.8	723,030	15.1	831,787	13.8
Lightweights Girls 24"	4,846	4.1	30,202	25.8	2,100	1.8	76,640	65.4	3,463	2.9	117,250	2.5	193,011	2.5
Lightweights Girls 20"			251	100.0							251		252	
TOTAL GIRLS	22,267	2.5	241,810	27.2	11,897	1.2	558,102	62.5	54,032	6.1	888,100	18.6	1,171,596	18.9
TOTAL LIGHTWEIGHTS	30,413	1.5	305,224	15.3	13,282	.7	1,422,666	71.5	219,222	11.0	1,990,807	41.8	2,773,319	44.8
Hi-Rise Boys	216,398	99.9	127	.1							216,525	4.5	336,716	5.4
Hi-Rise Girls	528,634	98.9	5,644	1.1							534,278	11.2	532,922	8.6
TOTAL HI-RISE	745,032	99.2	5,771	.8							750,803	15.7	869,686	14.0
BMX/Motocross Boys	1,560,146	99.1	12,700	.9							1,572,846	33.0	1,892,586	30.5
BMX/Motocross Girls	177,758	100.0									177,758	3.8	187,332	3.0
Total BMX/Motocross	1,737,904	99.2	13,700	.8							1,751,604	36.8	2,079,918	33.5
Middleweights Boys	33,315	96.1	9		35	.1	1,301	3.8			34,660	.8	47,247	.8
Middleweights Girls	30,004	99.8	68	.2			4				30,080	.6	37,195	.6
TOTAL MIDDLEWEIGHTS	63,321	97.8	77	.1	35	.1	1,305	2.0			64,740	1.4	84,442	1.4
Cruisers	181,702	100.0									181,702	3.8	354,788	5.7
Convertibles	23,493	92.5			1,211	4.8	395	1.6			25,099	.5	32,950	.6
GRAND TOTAL-											4,764,775	100.0	6,194,823	100.0
NON-MOTOR EXERCISERS														
ADULT TRICYCLES														

NOTES: (a) Percentage variance over previous year.
(b) BMA Members & Schwinn are actual figures.
(c) Other Manufacturers are estimate figures.

1982

		January	February	March	April	May	June	July	August	September	October	November	December	1982	1981	%
(b)	BMA & Schwinn	256,429	422,841	435,036	488,247	459,941	432,666	353,666	300,267	416,402	462,320	430,304	210,170	4,764,775	6,194,823	(23.1)(a)
(c)	Other Mfg.	50,000	50,000	50,000	36,444	36,444	36,444	19,445	19,445	19,445	(6,667)	50,000	30,000	637,750	637,750	136.61
	Subtotal	306,429	472,841	485,036	522,691	496,385	469,110	373,111	319,712	435,847	455,653	480,304	240,170	5,401,525	6,831,573	(20.91)
	Imports	49,577	81,014	175,021	154,548	182,757	156,705	112,424	158,656	135,970	122,004	124,526	102,565	1,551,807	2,099,643	(26.1)
	Total	356,006	553,855	660,057	677,239	679,142	625,815	485,535	552,368	572,097	577,657	612,210	370,743	6,720,782	8,931,216	(24.9)
	Ratio of Imports to U.S. Market	13.9%	14.6%	26.5%	22.8%	27.0%	25.1%	23.2%	27.6%	23.8%	21.1%	20.4%	27.7%	23.1%	23.5%	

1981

		January	February	March	April	May	June	July	August	September	October	November	December	1981	1980	%
(b)	BMA & Schwinn	201,574	426,604	602,148	758,726	742,020	640,231	562,372	596,987	563,346	509,038	354,599	164,178	6,194,823	6,191,635	.05
(c)	Other Mfg.	77,083	77,083	77,083	77,083	77,083	77,085	77,083	45,833	45,833	6,583	0	0	637,750	750,000	(15.0)
	Subtotal	278,657	503,687	679,231	835,809	819,103	717,316	639,455	642,820	609,179	515,621	354,599	164,178	6,831,573	6,941,635	(1.6)
	Imports	143,060	84,434	208,252	234,542	248,954	205,685	210,864	165,590	131,916	171,678	113,084	82,457	2,099,643	2,048,435	2.5
	Total	420,697	588,121	887,483	1,067,351	1,068,057	923,199	850,319	808,410	741,095	767,211	467,683	246,635	8,931,216	8,990,070	(.7)
	Ratio of Imports to U.S. Market	33.8%	26.8%	23.5%	22.1%	23.3%	22.3%	24.8%	20.5%	17.8%	22.4%	24.2%	33.4%	23.5%	22.8%	

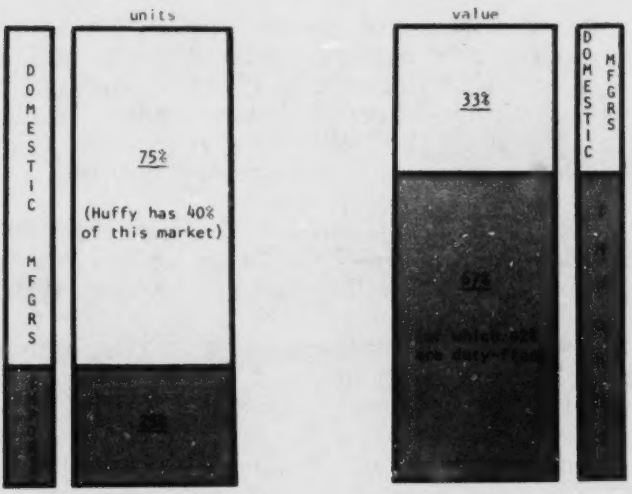
JJM:mfk
2/4/83

EXHIBIT VI

TOTAL U.S. BICYCLE MARKET

ILLUSTRATING EXISTING CONDITIONS BETWEEN DOMESTIC MANUFACTURERS OF

BICYCLES AND BICYCLE PARTS



BICYCLE TARIFFS

5½% on lightweight bicycles
11% on other than lightweights

BICYCLE PARTS TARIFFS

now approximately 13.3% average with staged reductions to 10% by 1987

DOMESTIC BICYCLE MANUFACTURERS CAN UTILIZE DUTY-FREE PARTS TO BALANCE TARIFFS.

Lightweight models make up 42% of domestic manufacturers production and utilize a much higher percentage in dollar value of imported parts than other models.

Mr. PAWSAT. Wald Manufacturing Co. makes bicycle parts in Maysville, Ky. Our counsel is showing you a handlebar stem, that is one of the parts as well as handlebars and front forks. That is just some of the parts we make. We have been in business since 1905 and in Maysville since 1924.

We are a small business in a rural community. Our operations, equipment, and plant facilities are modern. Because our only business is bicycle parts, our company's survival and employees' jobs are solely dependent upon the survival of the domestic parts industry.

Our industry is threatened by an application to the Foreign Trade Zones Board for a manufacturing subzone at Huffy Corp.'s Celina, Ohio, plant, FTZ Docket No. 17–82. In the past decade, the bicycle parts industry has been seriously eroded. The combination of increased importation of bicycle parts, recessionary economy and the strong dollar overseas have depressed our industry and our company.

Wald's employment as a result has dropped from over 400 employees working overtime in 1973–74 to approximately one-half today, working a 4-day week for the most part, in 1980, 1981, and 1982.

I would like to point out very clearly that our industry and our company has always had its ups and downs, and we feel we can again survive until better times, unless the Huffy Corp. is granted this subzone.

The March edition of the Ohio Business magazine features an article including an interview with Huffy's president and chief operating officer, attached as exhibit 1, entitled "Keeping Huffy Fit," which states: "Huffy is this company's largest manufacturer of bicycles, with a current domestic market share of 40 percent." It further states: "The export market for U.S. bicycle manufacturers is practically nil."

Huffy cannot deny that this article verifies that the primary purpose of the subzone application by Huffy is to avoid tariffs on bicycles Huffy produces for domestic consumption. This avoidance will occur as a result of assembly in the subzone of more imported parts into finished bicycles.

When these bicycles leave the subzone into our economy, Huffy will pay the duty rate for bicycles, which for the most part carry a much lower duty rate than the established rate for imported parts. The subzone will allow Huffy to pay the bicycle rate rather than the imported parts rate on all of its imported parts. Huffy will have no incentive to make or buy domestically manufactured parts.

The second largest bicycle manufacturing company, which enjoys 30 percent of the market, would be forced to make the same move for a subzone in order to stay competitive. As a result, the U.S. bicycle parts makers' market will shrink to nil. Smaller U.S. bicycle manufacturers, who cannot qualify for or support the cost of a subzone, will not be able to remain competitive and will be forced out of business.

Subzones have never been authorized by Congress. Instead, they have come about by regulation. The legislative intent behind the Foreign Trade Zones Act was to expedite and encourage foreign

trade. However, when applied to the bicycle parts industry, the Huffy subzone would be counterproductive.

Both the domestic bicycle and bicycle parts industries are very competitive, depressed, and import sensitive. Congress has carefully balanced the import sensitivity of each industry by imposing tariffs on bicycle parts which are calculated on a weighted average basis to give preference neither to imported bicycles nor to imported parts.

This balance allows 42 percent of the dollar volume of imported parts, most of which are used on lightweight bicycles, to be imported duty free, with duty rates of 5½ percent on lightweight bicycles and 11 percent on most other imported bicycles. The domestic bicycle manufacturer can use the duty-free component parts to balance the dutiable imported parts.

In comparison, the dutiable imported parts tariffs range from 5 percent on tires to 15 percent on tubes, an average of 10 percent, with most of the dutiable imported parts falling in a range of 13.3 percent.

In conclusion, the average tariff paid on imported parts is approximately the same as the average tariffs paid on imported bicycles. This balance has been carefully enforced by this subcommittee through the continuing series of duty suspension bills passed over the last 13 years. During that period, the bicycle manufacturers have come before the subcommittee for five duty suspension bills and you have had to carefully examine the economies of the two industries.

Working with this subcommittee, a basic agreement has been reached between the bicycle manufacturers, Congress, and the bicycle parts manufacturers. The duty on parts not manufactured in this country would be suspended, but the duty on domestically manufactured parts would not be tampered with.

Huffy's filing of the subzone application is a breach of this agreement and an act of bad faith.

As a result of this most recent round of multilateral trade negotiations, the tariffs on bicycle parts have been and will continue to be substantially reduced. In 1980, the average of tariffs for the bicycle parts was 15 percent. It is now 13.3 percent and will be reduced to 10 percent by 1987.

The scheduled reductions provide substantial tariff relief for imported components. We are using the time provided by these phased reductions to continue our efforts to modernize our plant, improve our technology, and to become more efficient.

The U.S. negotiators had the authority to reduce our tariffs by 60 percent. Because they fully understood the import sensitivity of our industry, they concluded that a 33-percent reduction phased in over 7 years would be as far as they could go without destroying the domestic bicycle parts industry.

There is no need for further tariff relief. We need the time allowed by the phased reductions to meet and beat the foreign competition.

Through its subzone application, Huffy is attempting to subvert the intent of Congress with regard to the purpose of the Foreign Trade Zones Act, to undermine the hard-fought efforts and recent conclusions of our multilateral trade agreement on bicycle parts

tariffs, and to upset the delicate balance which this subcommittee has enforced regarding tariffs in bicycle parts. The proceeding before the Foreign Trade Zone Board is an openly calculated attempt to avoid the tariffs on bicycle parts and is an abuse of that process.

We respectfully ask this committee to enact H.R. 657 in order to enforce the purposes of the Foreign Trade Zones Act and the decisions of our multilateral trade negotiators, as well as maintain the subcommittee's authority and responsibility for our tariff laws.

The Huffy Corp.'s primary objective for the manufacturing subzone is not to export bicycles, but is to greatly reduce the duty they now pay on imported parts, which now command two-thirds of the bicycle parts market in this country.

Chairman GIBBONS. You do not intend to read that whole long statement, do you?

Mr. PAWSAT. I am on page 7, sir.

Chairman GIBBONS. How many more do you have to go?

Mr. PAWSAT. Would you like me to summarize it?

Chairman GIBBONS. Yes, sir. We just do not have the time for all of that. I think we understand what the problem is. You do not want Huffy to expand into a trade zone, and you say you have made some kind of deal with this committee about some kind of careful balance. I have been on this subcommittee ever since it has been a subcommittee, and I know we have had these things before. I do not remember any kind of agreement that we have ever entered into. I have never entered into an agreement with anybody about legislation.

Mr. PAWSAT. There was an agreement that any part that is not made in this country would be imported duty free. That was a duty suspension bill. Now, I'm not sure where that came from.

Chairman GIBBONS. Well, I imagine it came from here, but if it was some kind of agreement, it was made with somebody other than me.

Mr. PAWSAT. I think the agreement we are referring to, sir, is one where the bicycle manufacturers——

Chairman GIBBONS. Well, maybe you and the industry got together on an agreement, but this Congress was never a party to any agreement.

Now, explain to me exactly what Huffy is trying to do. They are trying to do what? Have they got a trade zone now?

Mr. PAWSAT. No, sir. They have an application for a trade zone.

Chairman GIBBONS. Do they bring any of their products in under the trade zone now?

Mr. PAWSAT. They do not have a trade zone at the present time.

Chairman GIBBONS. Well, I remember that we have allowed some parts of bicycles to come in duty free. We did that at what we thought was the request of the American bicycle industry. This was done as there were certain parts such as hand brakes and other items which were not manufactured domestically.

Mr. PAWSAT. That is correct, sir.

Chairman GIBBONS. I do not exactly understand what you are trying to do now, and what Mr. Perkins is trying to prevent. Tell me in your own words what has been the past practice and what is the proposed practice.

Mr. PAWSAT. The past practice has been that any part that Huffy puts on their bicycle that has come in under the duty suspension bill, they pay no tariffs on it. For imported parts that are also made in this country, they have to pay the applicable parts duty, which is 13.3 percent. Huffy wants to circumvent this through the trade zone, and pay the lower duty, which for the most part would be 5.5 percent.

What they have done, sir, is, they have run our back into the wall, and they are getting ready to pull the rug out from under us. In other words, they are taking, say, a part that we make, and are saying to us, you reduce that part by 8 cents or 8 percent, which we cannot do. So as a result of this move by Huffy, we and many other parts makers and the bicycle manufacturers have no choice but to come out here and fight.

Chairman GIBBONS. I understand that. Mr. Frenzel?

Mr. FRENZEL. I do not have any questions, Mr. Chairman.

Chairman GIBBONS. We will put your entire statement in the record. We may have to come back and ask you some additional questions.

Mr. PAWSAT. Mr. Chairman, if I may, please, I would just like to make a couple of points here in closing.

Chairman GIBBONS. All right, fine.

Mr. PAWSAT. Huffy has admitted that they do not want to export bicycles. I have proof in this testimony Huffy has admitted that they are in a good competitive position. They are financially sound. Huffy has admitted that they have 40 percent of the domestic market. If you look at the imports coming into this country over the past 15 years, they have averaged 25 percent. What is it that Huffy wants? Huffy wants to gain a further competitive advantage in this country at the expense of ourselves, and this gain will come out of our hides and put us out of business. It is not a picture that I am painting. It is the actual picture sir.

Chairman GIBBONS. What you are saying is, that they will bring in parts, assemble the bicycle and then pay duty on a completed bicycle. Is that what they will do?

Mr. PAWSAT. They would pay duty on the parts that they have assembled into the bicycle at the lower duty rate of 5.5 percent rather than 13 percent. This is where they are going to gain in their application some $2.5 million per year.

Mr. STAYIN. The net effect, Mr. Chairman, is a 60 percent reduction in the duty on imported bicycle parts for the benefit of Huffy. That is one corporation, and that is what it is all about. Instead of coming to this committee and saying, we would like this committee to reduce the tariff on bicycle parts by 60 percent, instead of going through the multilateral trade negotiations where the parts could have been reduced by 60 percent, and where they were actually reduced 30 percent, they are going down through an administrative process that has nothing to do with tariffs, and they are going to reduce the tariff unilaterally through this agency operation by 60 percent. That is the net effect, and that is what we have got to fight.

Chairman GIBBONS. Why is the administration opposed to this bill? Do you know?

Mr. STAYIN. I think their basic position is that there is an administrative process, and they would like to go through their administrative process and deal with it through that.

Mr. FRENZEL. Mr. Chairman, as I understand it, the other company, Huffy or whatever it is, is simply taking advantage of a law that is on the books, and there is not any reason why they should not unless these gentlemen are successful in modifying it. You guys told us what the other company wanted to do. Is it untrue that they have been losing money?

Mr. PAWSAT. In this recessionary economy, I think every one of the parts makers and possibly—I cannot speak for the bicycle manufacturers, have not been making money. That is true of ourselves, and I think that when they found this quirk, if we can call it that, they seized upon this and the other circumstances that are happening in this country at this time, to take advantage of the parts makers.

I would just like to say at this time, if I may go back to the testimony here, just for 1 minute, because this is a very important thing to our company and our industry, that this subzone, without H.R. 657, will destroy many American bicycle parts manufacturers and their employees' jobs, snowballing to include the American bicycle manufacturers, and in the next 5 to 10 years destroying over 10,000 U.S. jobs, including support industries such as steel fasteners, paper, shipping, et cetera.

In recognition of these facts, 12 U.S. parts manufacturers, including ourselves, and eight U.S. bicycle manufacturers have also filed in opposition to Huffy's application. We are attaching a summary of these and other comments as exhibit 4.

It is important to note that only one parts manufacturer and no bicycle manufacturer other than Huffy has filed in support of Huffy's application. The Cycle Parts and Accessories Association has filed an opposition to Huffy's application, and has submitted written testimony with this subcommittee in favor of H.R. 657.

The Bicycle Manufacturers Association has taken no position on Huffy's application for subzone or this bill.

Mr. Chairman, if I can put this in everyday country language from a small town like we are from, what Huffy is coming in and saying is, this is going to be good for us. Here we have all of these people in opposition and nobody for it, so we must be all wrong, and they are all right? It just does not make sense. I would like to have this percentage of bicycle imports and this bargraph added to the record as exhibit IV and V, if I may, please.

Chairman GIBBONS. All of it will be in there.

Mr. PAWSAT. Therefore, for our entire industry, we sincerely urge your favorable support of H.R. 657. Thank you. I would be happy to answer any questions you have.

Chairman GIBBONS. As I recall, we first started giving duty-free treatment to derailers. Is that the name of the product? That was the first thing that we had. We had testimony at that time which stated that they were either not manufactured in this country or were protected by some patent infringement problem. It was something of that sort. I have forgotten the details of it, but it started with derailers. I remember that much of it, but I do not remember a lot of the details.

Mr. AUERBACH. I am John Auerbach.

The word "deal" which troubled you a few moments ago, sir, is not in any part of the language, but it is implicit in the fact that our industry, the cycle parts manufacturers, and our association, was asked for our viewpoint. We hesitated to give it, because we thought it froze us out of that part of the market permanently for which we gave some duty-free relief, but in order to help the bicycle manufacturers, we agreed, and it seemed to us that a balance was struck at duty-suspension time which indicated that we were making a concession to the bicycle manufacturers, and they in turn would know that we could not make any further concessions to them.

And in response to the other gentleman's question about, is Huffy losing money, I do not know now, but Huffy is the fastest growing bicycle operation in the country. Its chairman was most recently quoted in the March 1983, issue of Ohio Business that they have increased their market share from 22 to 40 percent.

Now, if they are losing money, you wonder what increasing market share stands for. They are the largest manufacturer.

Mr. NEBEL. I am George Nebel, president, Roadmaster Corp.

In response to whether or not Huffy is losing money, the first quarter and the second quarter of their fiscal year, which is the third calendar and fourth calendar quarter of 1982, their quarterly statements showed they were losing money in excess of $1 million a quarter.

Chairman GIBBONS. Let us go on. Let us take Mr. Guffey, and then we will proceed. Mr. Guffey, do you want to testify next?

STATEMENT OF JOHN W. GUFFEY, JR., PRESIDENT, CARLISLE TIRE & RUBBER CO.

Mr. GUFFEY. Good afternoon, Mr. Chairman, and members of the committee.

I am John Guffey, president of Carlisle Tire & Rubber Co., and I would like to ask for our statement to be submitted for the record.

Chairman GIBBONS. Yes, sir, it will be.

Mr. GUFFEY. We will try to summarize this briefly.

Carlisle Tire & Rubber Co., has been manufacturing bicycle tires for over 35 years, bicycle tires and tubes, and is located in Carlisle, Pa., again, a rather rural community. It largely relies on the employment of our manufacturer. These types of tires and tubes have many applications for recreation, nonautomotive and nontruck, and employ approximately 650 people at the present time.

On the bicycle tire and tube question which relates to this bill, you have seen some of the products. We are a company that supplies a complete line of sizes and styles of bicycle tires and tubes, for instance, the entire requirement that would be required by a company such as Huffy.

We have a large, modern plant, and in the last 3 years have invested over $1.2 million in bicycle tire and tube equipment, and to further modernize our plant, and are regarded as probably one of the most efficient bicycle tire and tube plants in the world.

Our R&D effort is extreme. We have many people on—their daily lives and activities are to keep up to date with the latest tech-

nology and design, as well as styling of bicycle products. Our sales for bicycle tires and tubes was approximately $13 million in 1982, which was down 35 percent from the previous 2 years, when it was approximately $23 million.

We relate that totally to the recessionary aspects as well as some significant reductions by a particular customer, which I will refer to later. Presently our plant is operating at 40-percent utilization, so we have plenty of capacity available to supply the American manufacturers. We believe ourselves to be competitive. I think a large part of this question is the effect of imports and the part that imports play, and they primarily come from the countries of Taiwan and Korea, in the case of bicycle tires and tubes.

We believe ourselves to be competitive, and in fact on April 1 introduced a new program called the American spirit, which we know as a fact is penny-for-penny competitive with the Taiwanese and Koreans.

Our industry has been plagued by the difficulties in the bicycle industry over several years. At one time there were three major manufacturers. The company known as Uniroyal dropped out of this manufacture of bicycle products in the late sixties. Goodyear abandoned bicycle tires and tubes in the midseventies.

And we are proud to state that we are the only manufacturer in the United States and in the Western Hemisphere manufacturing bicycle tires and tubes, and we have only 15 percent of the U.S. original equipment and after market.

The balance of the—almost the entire 85 percent comes from the Far East, Taiwan, and Korea.

Now, the issue at hand, I think, today, is House bill 657, and I would like to review some of our thoughts on that as a company. We think the reason for the foreign trade zones in its originality, when foreign trade zones were first established in this country, was to promote the competitive ability of companies to compete when they exported their products to other countries other than the United States, and we think that principle should still apply today.

We understand the administration, the present administration view probably opposing this bill because it compounds and adds to existing laws that should handle the situation. However, in our research, we cannot find that on the foreign trade zones board where there are any—we have not found any where there has been any of them denied, and therefore I question whether the checks and balances inherent to that law and those procedures are actually operative and working.

The history of duty enactment has been a cooperative effort in our industry, and we think one that is fair and has been referred to earlier as being a decreasing duty situation, and we think it is one that has been fine tuned, unusually fine tuned as far as duties go in the bicycle industry.

If Huffy was successful, and this is the critical part to our company, if they are successful in getting a duty-free trade zone without the limitations applied by H.R. 657, there is no question in our minds that the other U.S. bicycle manufacturers must obtain the same status and enjoy the same privilege, or they will not survive.

If that would happen, the effect on Carlisle Tire & Rubber Co. would be absolutely to shut our doors. We presently rely for 70 per-

cent of our business with the original equipment market. If we only lost half of that part of our business, it would no longer be economically feasible for us to continue to manufacture bicycle tires and tubes, and we would displace at least 250 of our present employees if we did not manufacture, and there would no longer be a manufacturer of this product in the United States.

I question Huffy's stated purposes for their trade zone. I refer to three briefly. In their application to the foreign trade zone board, they said it was for the express purpose to aline themselves in order to export their product to other countries other than the United States. I did note there was no reference at all to that in their statement today. In fact, I would quote from their printed statement. "Huffy has applied for a foreign trade zone sub-zone simply to reduce the costs associated with importing bicycle parts." And there is no reference in the document to exports.

The question that the imported complete bicycle is a threat is not borne out by the facts. As someone mentioned earlier, for the past 10 years, approximately 25 percent of the bicycles have been imported, and it stays status quo. So there are no facts to support a growing threat of imported finished bicycles, and I do not accept Huffy's stated support that this is going to be good for U.S. manufacturers. We think we know how to manage our businesses also, and if that is an example, I would share this with you.

In 1982, our shipments of bicycle tires and tubes to the U.S. original equipment manufacturers other than Huffy fell 34 percent. To Huffy Co., they fell 81 percent. In 1981, we supplied Huffy $3.7 million worth of product. In 1982, we supplied them only $700,000, and we estimate that that is only 5 percent of their requirements. An earlier question, how much does Huffy import of bicycle components, I cannot speak for that, but I can tell you in bicycle tires and tubes they certainly import over 90 percent, because we are the only domestic manufacturer, and we know what we supply them.

In summary, we are opposed to the circumvention of existing laws, existing procedures, in order to escape the rightful tariffs which are applied to our products. Failure of this bill combined with Huffy's success for a duty-free trade zone would certainly spell the end of bicycle tire manufacturing at Carlisle Tire & Rubber, and therefore in the entire country.

Now, it may be an emotional plea, but I think every child, every one of our children, ourselves included, our grandchildren, the first thing we look forward to, I think, as a young lad or girl is a bicycle. I think that we represent in our company a little bit of Americana, and I would hate to see that every kid from now on would ride on a foreign tire and tube.

We ask your full support for this bill. It is very meaningful to the future of our country. Thank you.

[The prepared statement follows:]

STATEMENT OF JOHN W. GUFFEY, JR., PRESIDENT OF CARLISLE TIRE & RUBBER CO.

INTRODUCTION

Mr. Chairman and other distinguished members of the House Ways and Means Committee, I am honored to be allowed the privilege to address the Subcommittee

on Trade on behalf of the hundreds of employees of Carlisle Tire & Rubber Company who will be effected by the action taken on H.R. 657.

BACKGROUND—CARLISLE TIRE & RUBBER CO.

Carlisle Tire & Rubber Company (Carlisle) is an operating division of the Carlisle Corporation with its manufacturing facilities located in Carlisle, Cumberland County, Pa. Presently Carlisle produces a wide variety of rubber based products such as tires for use on golf carts, lawn mowers, three-wheeled vehicles, motorcycle tires and tubes, industrial hose and bicycle tires and tubes. Presently we employ approximately 634 people in all phases of our operations. However, the number of employees which participate in bicycle tire and tube operations exceeds 200. This includes over one hundred hourly employees who work on the bicycle tire and tube production line itself with the remainder of our bicycle operations employees performing support functions such as supervisors, warehouse personnel, sales, accounting and general administration.

Carlisle is the sole remaining domestic producer of bicycle tires and tubes.

H.R. 657—AMENDMENT TO THE FOREIGN TRADE ZONES ACT

There is little question that H.R. 657 was introduced as a response to the application of the Huffy Corporation, through the Greater Cincinnati Foreign Trade Zone, Inc., to the Foreign Trade Zones Board for a special-purpose subzone for its Celina, Ohio, manufacturing operations. H.R. 657 if adopted would eliminate bicycle tires, tubes and rimstrips as produced by Carlisle, from the exemption from the customs laws of the United States unless re-exported.

The net effect of the passage of H.R. 657 would be to foster the development of an export business which we understand to be the original intent of allowing foreign trade zones to be established.

Carlisle fully supports the efforts of any American bicycle manufacturer to increase their export business. However, the establishment of a foreign trade zone for the manufacturing of bicycles for domestic sales would negate the long established policy of reasonable import duties on bicycle component parts which are manufactured in America.

Simply put, a foreign trade zone provides a twofold competitive edge: Firstly, payment of the import duty on the component parts is delayed until the completed bicycle unit is shipped out of the zone; and secondly, the average duty rate on the completed bike units produced and shipped out of the zone is lower than that which is paid on the component parts individually, including tires and tubes. This type of advantage in a highly price sensitive industry is one which cannot be enjoyed by only one company. Thus if one concern obtains a foreign trade zone privilege all companies who want to remain competitive must have similar protection. If, for example, Huffy were to obtain such a status it is fair to assume that the next largest domestic producer, Murray Ohio, would likewise apply for such relief. If this were to be granted, then fully 80 percent of all domestic consumption of bicycles would be sold in this country without the parts thereof being subject to the full treatment of the duties as specified in customs laws of the United States. The 80 percent figure is based on the statement of Robert R. Wieland, Vice President and General Counsel of Huffy Corporation before the U.S. Foreign-Trades Zones Board. The figure is arrived at by allowing Huffy a 30 percent share of domestic consumption, Murray Ohio a 25 percent share, and all imports a 25 percent share.

Other domestic original equipment manufacturers would, in Carlisle's opinion, simply have to enjoy the same status or they could not compete in the domestic market and would eventually not survive.

The almost immediate result to Carlisle would be to lose most if not 100 percent of our original equipment business, which accounts for approximately 70 percent of our bicycle tire and tube sales. This reasoning is based on the well established fact that on an overall basis a bike company's gross sales price is lower if a completed bike duty rate is used on all sales as opposed to paying duty on the individual components. If Carlisle was to lose only 50 percent of its present original equipment sales, the bicycle tire and tube facility would be forced to close.

Presently tube and rimstrips are assessed a 15 percent ad valorem duty and tires a 5 percent ad valorem duty. The duty rates for completed lightweight bicycles is 5.5 percent ad valorem and 11 percent ad valorem on most other popular models. There is thus an obvious advantage on the lightweight models to use imported tires and tubes in a foreign trade zone. On the larger models, the apparent evenness of the duty is more than offset by the variance in the duty rates for other component parts and the delay in payment of the duty. Thus, there would be no advantage to pur-

chase original equipment tires, tubes and rimstrips from Carlisle by a domestic manufacturer in a foreign trade zone unless Carlisle's price was significantly lower than the foreign producers.

Carlisle has consistently remained as competitive as possible. In fact, we started a new promotional program in April of this year for bicycle tires and tubes, which we call the American Spirit Program. An integral part of this program was a significant reduction in prices to a level that is competitive with, but not lower than, our foreign competition which comes mostly from Taiwan and Korea.

In our opinion, Carlisle has the most modern and efficient bike tire and tube facilities in the world. Between 1979 and 1982, we have invested over $1.2 million directly into the bicycle tire and tube production facilities. Our non-union hourly employees are paid fair but not excessive wages.

Carlisle has vigorously sought to protect itself from unfair foreign competition by filing antidumping petitions against Taiwan and Korea in 1977, countervailing duty petitions against Taiwan and Korea in 1977, and an antidumping petition against Taiwan in 1982. All of these actions have resulted in little significant import relief despite some affirmative injury determinations. As the result of a 201 Escape Clause Petition filed by Carlisle the International Trade Commission in 1978 recommended to President Carter a program that would have increased the duties on imported bicycle tires and tubes by 10 percent. President Carter denied Carlisle this relief. Anyone connected with such actions knows that a tremendous amount of company effort, time and capital, goes into such import relief actions.

SUMMARY

Our product is a quality product as you can see from the samples which I have brought here with me today. We are an American company that has made every effort to remain competitive, aggressive and in business. If H.R. 657 is not adopted, the end result could well mean the end to the production of bicycle tires and tubes in America. To allow imported bicycle component parts to come into a foreign trade zone for use on a bicycle to be sold in America would circumvent the long established and recognized balance of trade in the industry. This could only have a severely detrimental effect on the domestic bicycle component parts industry. I urge you to vote in favor of H.R. 657.

Chairman GIBBONS. Mr. Nebel.

STATEMENT OF GEORGE C. NEBEL, PRESIDENT, ROADMASTER CORP.

SUMMARY

Roadmaster Corp. favors passage of H.R. 657 because without it, Huffy would have unfair competitive advantage over smaller U.S. bicycle manufacturers.

The real advantage to Huffy is 6–8 percent, not only 2 percent posited by Huffy.

Granting the subzone would subvert the purpose of the foreign trade zones intended by Congress to benefit exports.

The loss of U.S. jobs would be significant.

Passage of H.R. 657 will still give Huffy entitlement if and when it exports.

Free trade should be a two way street.

Mr. NEBEL. Mr. Chairman and members of the committee, my name is George Nebel, and I am president and owner of Roadmaster Corp. I am also chairman of the Bicycle Manufacturers Association of America.

Our company is located in Olney, Ill., where we are engaged in the manufacture of a full line of quality American bicycles, and I have a catalog here that you might want to look at that shows the full line from 10 and 12 speeds down to the dirt bikes that the kids ride today, down to a girl's first bike.

We employ 800 employees in a county where the current unemployment rate exceeds 20 percent. I am here to testify in support of H.R. 657, a bill which would amend the Foreign Trade Zones Act to exempt bicycle component parts not exported from the exemption

from the customs laws otherwise available to merchandise in foreign trade zones.

We have gone on record with the Department of Commerce in opposition to the application by Huffy Corporation for foreign subzone status for its Salina, Ohio, bicycle manufacturing and assembly facility, as have several other smaller bicycle manufacturers, including Spiral, Scorpion, Columbia, Ross, and Schwinn.

Passage of H.R. 657 would nullify the disastrous effects a free trade subzone at the Huffy Salina, Ohio, plant would have on the remaining U.S. bicycle and bicycle parts industries. The U.S. bicycle industry is already polarized, being dominated by two giants, Huffy Corp., with 42 percent of the market, and Murray, Ohio, with 35 percent. A number of smaller manufacturers share the remainder of the U.S. market, and Roadmaster Corp. is one of these.

Huffy and Murray enjoy the economies of scale and therefore lower cost than any of the remaining manufacturers. This is not to say that smaller manufacturers are inefficient. Our facility is a 720,000 square foot single level modern plant with state-of-the-art technology. Our quality and consistency of manufacture is the best in the world.

I only refer to Huffy and Murray having lower cost because of the economies associated with their size, not because of technology or efficiency. In this most recent recession, the U.S. bicycle market has dropped from nine million units in 1979 to 5.2 million units in 1982, a reduction of 43 percent.

Both of these giants, because of their lower cost structures, have maintained their share of market by dropping prices below our cost levels, and the question remains as to whether in some cases below their own costs. In fact, Huffy, the largest bicycle manufacturer in the world, has actually increased market share during this recession by their questionable pricing practices.

These practices have brought several of the smaller manufacturers with higher cost structures to a battle of survival. Any further advantage given either of these giants in our industry would destroy the smaller manufacturers. We would not be able to survive a Huffy foreign trade subzone.

In its application for the foreign trade subzone Huffy states that the granting of the subzone status would enable them to drop their prices by 2 percent. We maintain the average is a multiple of that, at least 6 percent, and it could be as high as 8 percent.

Unless H.R. 657 is passed, the inevitable result of a Huffy subzone would be the closing down of the small bicycle manufacturers and of the entire bicycle parts industry. Closing our doors, with the resulting unemployment of 800 employees, would be devastating to the economy of Richland County in southern Illinois.

The current high unemployment rate would sharply rise at terrible social cost to our community. Closing our doors would have a similar effect on our suppliers, the bicycle parts manufacturers, who would not only lose Roadmaster as a customer, but would also lose Huffy, which can use the subzone to avoid the current tariffs on imported bicycle component parts.

If Huffy succeeds in its subzone application, we expect that Murray will immediately follow. Thus, the domestic parts, bicycle

parts manufacturers will lose both Huffy and Murray to offshore manufacturers, in effect exporting 7,500 additional U.S. jobs.

There is no question that Huffy's intention is to use the foreign trade subzone to avoid paying the current duty on imported bicycle components which will be assembled into bicycles to be sold in the domestic market. The legislative intent behind the creation of the foreign trade subzones was to stimulate exports. In this instance, the foreign trade subzone will be used not to stimulate exports, but to avoid paying the tariff which has been set as a result of multilateral trade negotiations.

Congress has already suspended the duty on the components that are not manufactured in the United States. The subzone will allow Huffy to go beyond the intent of Congress regarding the purpose of the foreign trade zones and to upset the delicate balance which Congress has established regarding imported bicycles and imported components.

It is incumbent upon Congress to prevent this abuse of an administrative process to circumvent our tariff laws. H.R. 657 simply requires Huffy to continue to pay the existing duty on components they import. If Huffy has any intention of using the subzone for export, this bill would not require Huffy to pay duty on components that are actually re-exported.

In this manner, Congress can maintain the current tariff balance, and yet encourage the use of a subzone for exports in accordance with its legislative intent. While H.R. 657 is not as satisfactory as not granting the subzone at all, you would at least maintain the current precarious state of the domestic industry, including both bicycle manufacturers and component manufacturers.

It would not give additional advantage to the giants, Huffy and Murray, and would give the smaller manufacturers in our industry a chance to survive.

We at Roadmaster Corp. strongly believe that the burden of proof should be on the Huffy Corp. to establish that granting of the application will not result in a net loss of domestic employment. Similarly, the application for the subzone should not be granted unless Huffy can also show that new jobs created by the grant are not simply being transferred to Salina from such areas as Olney, Ill.

Finally, Huffy should be required to show the net benefits to them from granting the application will exceed the net detriment to other bicycle manufacturers and parts manufacturers. This would include providing the mathematics of the alleged 2 percent price drop.

We at Roadmaster are confident in the future of the domestic bicycle industry in the United States. Under certain conditions, we see a place for ourselves and other smaller manufacturers. Under the current tariff arrangement, we feel that we can continue to grow and become a vital part of that industry, but if the largest bicycle manufacturer gains an advantage through avoidance of tariffs, we have no future.

The current tariffs on bicycle parts are already being reduced over a period of time through 1987. Huffy does not need the additional advantage it would get by avoiding even that tariff through the subzone status.

For these reasons, we strongly urge your passage of H.R. 657, which is vital to the preservation of a domestic bicycle and bicycle parts industry and the many jobs it provides.

In conclusion, I would like to state that free trade should not be a one-way street. Duty rate for bicycles and components should not be lower coming into this country than they are going into Japan, Taiwan, or any other foreign country. If they are, you are putting U.S. manufacturers at a disadvantage in the world market.

Thank you, Mr. Chairman.

[The following letter was received prior to the hearing:]

ROADMASTER CORPORATION
P.O. Box 344
Olney, Illinois 62450
618/393-2991

April 12, 1983

Congressman Sam M. Gibbons
Chairman
House Sub-Committee, Ways & Means
Washington, D. C. 20515

RE: H.R. 657

Dear Congressman Gibbons:

The Foreign Trade Zones Docket No. 17-82 concerns the application by Huffy Corporation for Foreign Trade Subzone status for its Celina, Ohio bicycle and bicycle parts manufacturing and assembly facility.

Roadmaster Corporation opposes this application. The U. S. bicycle industry is already polarized, being dominated by two giants, Huffy Corporation with 42% of the market, and Murray Ohio with 35%. A number of smaller manufacturers share the remainder of the U.S. market, and Roadmaster Corporation is one of these.

Huffy and Murray enjoy economies of scale and, therefore, lower costs than any of the remaining U.S. manufacturers. In this most recent recession, the U.S. market has dropped from 9.0 million units in 1979 to 5.2 million in 1982, a reduction of 42%. Both these giants, because of their lower cost structure, have maintained their share of market by dropping prices below our cost levels and a question remains as to whether in some cases below their own costs. In fact, Huffy, the largest manufacturer in the world, has actually increased market share during this recession by their questionable pricing measures.

These practices have brought several of the smaller manufacturers, with higher cost structures to a battle for survival. Any further advantage given either of these giants in our industry would destroy the smaller manufacturer. We would not be able to survive. Huffy, in its application states that the granting of the Subzone status would enable them to drop their prices by 2%. We maintain the advantage is a multiple of that, at least 6%, and it could be as high as 8%.

We employ 800 employees in Richland County in Southern Illinois. The unemployment rate in Richland County is 26.5%. Closing our doors would be devastating to the economy of Richland County. It would have a similar affect on our suppliers, the cycle parts manufacturers, who would not only lose Roadmaster as a customer, but would lose Huffy and Murray to offshore manufacturers, in effect exporting approximately 7500 additional U.S. jobs.

H. R. 657 simply requires Huffy to continue to pay the existing duty on components they import. If the bicycles that are made from these components are then re-exported, they get a duty credit.

This resolution, while not as good as not granting the subzone at all, would at least maintain the current precarious state of the domestic industry, including both bicycle manufacturers and component manufacturers. It would not give additional advantage to the giants, Huffy and Murray, and would give the smaller manufacturers in our industry a chance to survive.

We, at Roadmaster Corporation, strongly believe the burden of proof should be on Huffy Corporation to establish that granting of their application will not result in a net loss of domestic employment. Similarly, this application should not be granted unless Huffy can also show that new jobs created by the grant are not simply being transferred to Celina from areas such as Olney. Finally Huffy should be required to show the net benefits to them from granting the application will exceed the net detriment to other bicycle manufacturers and parts manufacturers. This would include providing the mathematics of the alleged 2% price drop.

Passing of H.R. 657 would nullify the disasterous effects a free trade subzone at Celina, Ohio, would have on the remaining U.S. industry. We strongly urge its passing.

Sincerely,

ROADMASTER CORPORATION

G Nebel

George C. Nebel
President

GCN:gds

cc: Senator Charles Percy
Senator Alan Dixon
Congressman Daniel Crane
Congressman Phillip Crane
Congressman Daniel Rostenkowski
Congressman Martin Russo

Chairman GIBBONS. Thank you, Mr. Nebel. Mr. Auerbach.

STATEMENT OF JOHN AUERBACH, EXECUTIVE DIRECTOR, CYCLE PARTS AND ACCESSORIES ASSOCIATION, INC., ACCOMPANIED BY ROBERT AUERBACH, GENERAL COUNSEL

Mr. AUERBACH. Mr. Chairman, with your permission I would like to file a statement with the Committee and make a few brief remarks.

Chairman GIBBONS. Yes, sir. We would be glad to have your statement and your remarks.

Mr. AUERBACH. The continuation of the present duty rates on bicycle parts is not a contentious one which sees the U.S. bicycle industry divided into opposing forces, otherwise one might expect to see more bicycle manufacturers here opposing this bill when instead we see a very principal bicycle manufacturer taking his stand with the bicycle parts manufacturers. The only supporter of the Huffy application in the entire bicycle industry that we are aware of is Huffy itself.

We do not know of any other bicycle manufacturer or any other parts manufacturer nor should might it be noted that importers of bicycle parts who would benefit greatly from the Huffy subzone application. They have not sent counsel or representatives here to tell you not to oppose this bill.

The reason is obvious. They know a very good thing when they have it. Importers now control 65 percent of this market. What we are talking about here is preventing the takeover of the remaining 35 percent of the market.

Finally, sir, we believe that the failure to close off this unexpected loophole in foreign trade zone, that it seems unexpected to us, at least would enable users of foreign trade zones to corrupt its very high purpose which is a very worthy one and which we are not in opposition to. We completely support the foreign trade zone program.

We strongly oppose its misuse and its abuse. This bill would prevent that program from being undermined.

Thank you.

[The statement referred to follows:]

STATEMENT OF CYCLE PARTS & ACCESSORIES ASSOCIATION, NEW YORK, N.Y.

The Cycle Parts and Accessories Association ("CPAA") strongly supports H.R. 657 and urges its approval by the Subcommittee on Trade, House Committee on Ways and Means. CPAA is a trade association representing leading manufacturers of bicycle components in the United States.

H.R. 657 advances the public interest because it protects the Foreign-Trade Zones Program from being subverted and used purely as a tariff cutting instrument. This is implicit in a sub-zone application filed with the Foreign-Trade Zones Board by the nation's largest and fastest growing bicycle manufacturer, the Huffy Corporation.

If the duty savings sought by Huffy is granted, it will undermine the present limited tariff protection on bicycle parts with a consequent destructive impact on U.S. parts manufacturers. Additionally, all of Huffy's fellow bicycle manufacturers, except one, have asserted that it would seriously damage their competitive relationship in the market place.

The applicant before the Foreign Trade Zones Board has already been the beneficiary of low cost imported parts at the expense of domestic manufacturers. Foreign parts exporters have steadily improved their market penetration here to the point where they now command 65 percent of the total market. Thirty-one countries

shipped a complete variety of components to the United States in 1982. In contrast, most U.S. manufacturers have operated at a loss; some have left the industry.

The vulnerability of this segment of the industry is well known to the U.S. Congress, the House Ways and Means Committee in particular and many other agencies of government. Federal bodies have avoided taking unreasoned or precipitous action in order not to upset the delicate balance of competing interests which pervails between the domestic bicycle manufacturers and their suppliers.

During the recent multinational trade negotiations, this Association submitted numerous briefs and testified at hearings against tariff reductions. Our industry received the closest analysis by various government agencies involved in the program. The precarious nature of the parts industy was acknowledged when its duty rates were subjected to only a partial tariff reduction instead of the full 60 percent cut applied to thousands of other products.

In recent years, several petitions were filed by foreign countries to have bicycle parts added to the Generalized System of Preferences. New studies were undertaken by government officials. Our import sensitivity was again acknowledged by virue of the fact that GSP treatment was denied for all bicycle components produced domestically.

The U.S. cycle parts industry is comprised of many companies ranging from exceedingly small ones to divisions and subsidiaries of large multinational corporations. They derive most of their revenues from original equipment manufacturers of which there are six principal ones. Because of this small customer base, they are highly vulnerable to sudden shifts in demand for their products. If a bicycle manufacturer should decide to purchase a component from a different source, or to produce it internally, such a decision could have a dramatic impact upon the supplier who loses that business.

Domestic parts manufacturers are further threatened by the concentration of the market in two dominant bicycle producers. The two major manufacturers, Huffy Corp. and Murray Ohio Manufacturing Corp., have both enlarged their market share over the past several years and now account for 80 percent of total domestic bicycle production. Murray Ohio is now manufacturing bicycles for Schwinn. The other major bicycle manufacturers are Ross, Roadmaster and Columbia who together with five to ten smaller manufacturers compete for around 20 percent of the remaining market.

All the U.S bicycle manufacturers, with the exception of the powerful Huffy Corp. and Murray Ohio, have indicated great alarm at the prospect that the Huffy subzone application might be approved. They argue that the duty and other benefits gained by Huffy will undermine their competitiveness. It will increase Huffy's already large market share and oblige Murray Ohio to quickly seek the same low duty benefits available under the Foreign Trade Zones program.

The domesic parts manufacturers want to see Huffy prosper. After all, Huffy is almost every parts supplier's first or second best customer. They have been quite supportive of Huffy in the past. As an example, beginning in 1971 the parts makers have worked for successive extensions of the suspension of duties on certain bicycle components not manufactured in this country. Huffy and other bicycle manufacturers were, therefore, able to avoid any duty payment on 42 percent of their imported parts or on nearly 600 million dollars worth of merchandise since 1972. The cost has been high to domestic parts makers since it has discouraged them from sharing in this considerable part of the market.

H.R. 657 would be redundent were it not for the fact that an applicant, such as Huffy, could gain valuable personal benefits by exploiting loopholes in the Foreign-Trade Zones program. A simple question may be asked. Does Huffy require sub-zone benefits either to increase its export potential or to defend itself from import competition? The facts suggest otherwise.

Huffy's growth over the past decade has been nothing short of spectacular. Outstanding management and excellent marketing strategies account for its success. As Huffy's President, Harry Shaw, notes in the March 1983 issue of Ohio Business, his company's market share has risen dramatically from 22 percent in 1972 to 40 percent today. He further noted that the company's product line has expanded in the past decade from 40 to 60 different models.

In the same story on Huffy, the Ohio Business magazine comments that the export potential for Huffy is practically nil. Mr. Shaw is quoted as follows: "In 1982 this country exported only 50,000 bicycles. Almost every country in the world has a domestic bicycle business. There are protective barriers set up almost everywhere we ship"!

Many publications have signalled out the success of Huffy and other U.S. bicycle manufacturers in blunting an overwhelming import threat. In its September 27,

1982 issue, Forbes Magazine commented favorably on this development by noting that the U.S. bicycle manufacturers had greater success in blunting the import threat than did the automobile manufacturers of Detroit. Bike imports, they reported, "have fallen from 37 percent of the market ten years ago to just 25 percent today." The parts manufacturers helped achieve this favorable result by supporting legislation placing many important bicycle components on a duty free basis and by actively opposing tariff and other proposals that would have lowered the current rates on bicycles.

What harm would befall Huffy if H.R. 657 prevented it from obtaining lower duty benefits under the Foreign-Trade Zones program? Without such benefits it's business has consistently trended upward in the last ten years so that it now claims 40 percent of the total market. Huffy helped reduce and stabilize an import threat to its part of the market. It admits that it has little or no prospects of a substantial increase in the exportation of its products.

Huffy will indeed derive major personal benefits from favorable sub-zone ruling. It will gain an even greater share of the market held by U.S. manufacturers. This is the chief reason that, with one exception, most other domestic bicycle manufacturers oppose Huffy's application and support H.R. 657.

If a favorable sub-zone ruling is not prevented in the Huffy case, or that which may immediately be filed by the second principal bicycle manufacturer, America's interests and those of the U.S. parts manufacturers, will be ill served. It would destroy the viability of many plants that now provide employment to thousands of workers in many communities of America. It will also remove yet another technological resource.

The continuation of the present duty rates on bicycle parts is not a contentious issue which involves quotas, dumping or other remedies which cause international problems for our government. No foreign government is asking for a reduction in the duties on bicycle parts. None of the thirty-one countries that sell parts in the United States are opposing H.R. 657. They do not want to upset a good thing.

As regards the public interest, we believe that the failure to close off an unexpected loophole will inspire many manufacturers to corrupt the Foreign-Trade Zone program's high purpose by using it as a technique to effectively lower duty rates. H.R. 657 would prevent this from happening. We urge you to report it favorably without delay.

EXHIBITS ATTACHED

Exhibit A: Statement in opposition to application by Greater Cincinnati Foreign-Trade Zone, Inc., for a special purpose sub-zone at the Huffy Corp. Manufacturing Facility in Celina, Ohio.

Exhibit B: Article entitled "Keeping Huffy Fit" appearing in the March 1983 issue of Ohio Business.

FOREIGN-TRADE ZONES BOARD

* *

STATEMENT IN OPPOSITION TO APPLICATION BY GREATER CINCINNATI FOREIGN-TRADE ZONE, INC. FOR A SPECIAL PURPOSE SUB-ZONE AT THE HUFFY CORP. MANUFACTURING FACILITY IN CELINA, OHIO

SUBMITTED BY:

Cycle Parts & Accessories, Inc.
122 East 42nd Street
New York, N.Y. 10168
(212) 697-6340

October 28, 1982

Introduction

It is with great reluctance that the Cycle Parts and Accessories Association, Inc. ("CPAA") files this statement in strong opposition to the application by Greater Cincinnati Foreign-Trade Zone, Inc. for a special purpose sub-zone at the Huffy Manufacturing Corp. facility in Celina, Ohio. Huffy is the largest domestic bicycle manufacturer and, as such, is a valued customer of most CPAA members. We would much prefer to be supportive of Huffy's objectives, as we have been on many occasions in the past.

This opposition statement is not being filed casually but only after arduous deliberation on the part of the membership of this organization. As stated before, it hardly serves our interest to oppose our largest customer. But on balance, we decided that we simply could not afford not to. From our perspective, nothing less than the very existence of the U.S. parts industry is at stake.

CPAA is comprised in membership of the leading domestic producers of bicycle components. A list of its members is annexed as Exhibit A. The domestic cycle parts industry is highly import sensitive. The organization has a long history of opposing proposals, such as the instant one, which have the effect of lowering the duty rate on imported bicycle parts.

During the multilateral trade negotiations, CPAA and its members submitted numerous briefs and testified at hearings against any tariff

reductions. Our industry received the closest analysis by various governmental agencies, including the United States Department of Commerce. Government officials have told us that, for an industry of our relatively small size, our participation in the multilateral trade negotiations was unusually strong. That participation was not without cost, both in terms of executive time and dollar outlays for briefs, travel, meetings, etc. Then, as now, the industry was at a critical crossroads. The stakes were high, since, under the Trade Act of 1974, the President had the authority to lower duty rates by as much as 60%. For most bicycle components, that would have been a reduction from 15% to 6%.

There is a familiar ring to the arguments used by the Greater Cincinnati Foreign-Trade Zone in support of its application. We heard similar arguments presented by the bicycle manufacturers when they pushed for deeper duty cuts on bicycle parts during the multilateral trade negotiations. Naturally, those arguments shall be refuted in this statement.

As a result of our efforts during the multilateral trade negotiations, the U.S. parts industry received a partial exception from a full duty cut. The tariff rate on most domestically manufactured bicycle components was lowered from 15% to 10%. As with other products, the reductions were staged over a period of several years.

Even before the multilateral trade negotiations had been concluded, Brazil and India filed a petition to have bicycle parts added to the Generalized

System of Preferences. Again, we mobilized our forces, at considerable expense, to fight this action. Further studies of the domestic cycle parts industry were undertaken by government officials. Our import sensitivity was again acknowledged by virtue of the fact that GSP treatment was denied for all bicycle components produced domestically.

CPAA has also cooperated with the domestic bicycle manufacturers who, since 1971, have benefitted from the total suspension of duty on certain bicycle components not manufactured in this country. Known as the duty suspension bill, it was first enacted by Congress in 1971 and has been renewed for successive two or three year periods ever since. As with the MTN and the GSP, several government agencies have provided input to congressional committees with responsibility for assessing the impact of this legislation upon our industry. Every effort was made to ensure that the legislation would not have the effect of suspending the duty on a component manufactured in this country. Indeed, over the years, several products have been removed from the duty suspension bill when domestic production resumed.

Recently, this organization and several of its members testified and filed comments on a new harmonized commodity code and the Caribbean Basin Initiative.

Within the past five years, two of our members, Carlisle Corp. and Stewart-Warner Corp., have filed antidumping and countervailing duty actions against imports from Taiwan and Korea. In more than one instance, the government has issued findings of material injury, dumping and subsidies and

there are antidumping duty orders currently in effect for both bicycle tires and tubes and speedometers.

John Auerbach, who is Executive Director of CPAA, has been an Industry Sector Advisory Committee member for several years and is presently co-chairman of the customs valuation sub-committee of his ISAC.

Thus, this organization is not a newcomer on tariff issues. It has been vocal, active and in large measure successful in protecting this industry from being destroyed by low priced foreign competition. Our import sensitivity has been acknowledged on several occasions. Federal agencies have avoided taking unreasoned or precipitous action in order not to upset the delicate balance of competing interests that currently prevails between the domestic bicycle manufacturers and their suppliers.

We offer this background information in the hope that it will provide the Foreign-Trade Zones Board with a better context in which to evaluate the instant proceeding.

The Domestic Cycle Parts Industry

Unlike the domestic bicycle manufacturing industry (discussed below), the domestic cycle parts industry is very heterogeneous. It is comprised of many companies ranging from exceedingly small "cottage type" operations to divisions and subsidiaries of large multinational corporations. The larger

parts producers derive most of their revenues from original equipment manufacturers, of which there are six principal ones. With such a small customer base, they are highly vulnerable to swings in demand for their products. If, for example, a bicycle manufacturer should decide to purchase a component from a different source, or perhaps even produce it internally, such a decision could have a dramatic impact upon the supplier who loses that business.

The highly cyclical nature of the bicycle industry is yet another factor with which parts producers must contend. Domestic bicycle shipments will probably not exceed 4.75 million units in 1982. This will mark the lowest level of production since 1965! Virtually no one anticipated such a bad year for the industry and the bicycle manufacturers went into 1982 with a heavy inventory of components which they are still working off.

Over the years, parts producers have learned to cope with the ups and downs of these cycles. But unless business improves, and fast, it is almost a certainty that some will not survive. Indeed, Bendix Corp. withdrew from the coaster brake business this year. Bendix's decision takes on a special note of sadness when one reflects that the bicycle coaster brake was one of the first products manufactured by this outstanding company at the turn of the century.

In the current economic environment, most domestic parts producers are operating at a loss. However, there is some room for cautious optimism in the fact that orders received by the bicycle manufacturers are starting to increase. There remain considerable skepticism within the industry as to

whether this denotes a discernable trend. Even if it does, it will be many months before its benefits are fully felt by the parts producers because of the high level of component inventories in the manufacturers' warehouses.

Two other trends have worked to the detriment of the domestic parts producers. The first is a tendency towards vertical integration, particularly by the two largest bicycle manufacturers, Huffy and Murray Ohio Manufacturing Co., Inc. Both companies have such substantial capacity as to justify capital expenditures for the purpose of vertically integrating their operations. Today, the original equipment manufacturers produce internally many of the components which were originally purchased from outside sources.

A second and more significant trend involves the inexorable erosion of our market by foreign competition. Never before has there been such a confluence of negative factors for our industry. Chief among them must be the abnormally high value of the U.S. dollar, particularly in its relationship to the Japanese yen and other Far Eastern currencies. Japan, Taiwan and Korea have always enjoyed a cost advantage over domestic producers but this advantage has been distorted way out of proportion to actual cost differences because of the enormous rise in the U.S. dollar. Furthermore, CPAA is presently investigating evidence of dumping and subsidization of bicycle components from Japan, Italy, Taiwan and Korea. In some cases, bicycle parts are actually being sold below material cost. When our investigation is complete, it is our intention to take appropriate action under U.S. antidumping and countervailing duty laws.

Because of these developments, foreign parts makers have managed to capture about 2/3 of our domestic market. As can be seen by reference to Exhibit B, component imports have increased relentlessiy, in both good years and bad. The total dollar value of bicycle component imports exceeds that of bicycle imports.

Thus, it can readily be seen that domestic bicycle manufacturers are already availing themselves of the enormous incentives for purchasing from overseas suppliers. The current duty rate on bicycle components has hardly served as a deterrent. But the minimal protection it does afford is extremely important to the CPAA and its membership. We urge you not to remove this protection and further lengthen the odds on our survival.

The Domestic Bicycle Manufacturing Industry

The U.S. bicycle manufacturing industry is oligopolistic and probably is getting more so. In the mid 1970's, two bicycle manufacturers, Iverson and H.P. Snyder withdrew from the business. Today, the remaining six principal manufacturers account for approximately 94% of domestic production. The remaining 6% is accounted for primarily by small specialty producers, many on the West Coast, who cater to the motocross trade. Additionally, a couple of manufacturers on the East Coast show future promise although presently their unit volume is not that significant in the total picture.

There is evidence that the industry is becoming more concentrated. The

two largest producers, Huffy and Murray, have both increased market share over the past several years and now account for perhaps 70% of total domestic production. Schwinn has substantially curtailed its domestic bicycle manufacturing operations. It imports several hundred thousand units from Taiwan and Japan. Also, Murray has agreed to manufacture bicycles for Schwinn in accordance with Schwinn's specifications and Huffy has acquired rights to produce and market Raleigh bicycles. The remaining three principal manufacturers are Ross, AMF and Columbia.

There are two basic market segments in which bicycles are sold - major retailers and bicycle specialty shops. According to Huffy's 1982 annual report, large national and regional retailers now sell approximately 75% of all bicycles, with the balance being sold by small individually owned specialty bike shops.

Huffy, Murray, AMF and Columbia are the predominant domestic suppliers to the national and regional retailers. Schwinn and Ross supply the independent bicycle dealer.

The domestic bicycle manufacturing industry may be characterized as "import sensitive", although not nearly to the same degree as the domestic parts industry. Attached hereto as Exhibit C is a table setting forth domestic shipment and import data for the U.S. bicycle market during the period 1972 - 1982. The market share captured by bicycle importers during that period is depicted graphically in Exhibit D.

As will be noted, in 1972, bicycle imports captured an unacceptably high 37% of our domestic market. However, the domestic bicycle manufacturers succeeded in regaining market share to the point, where, in 1979, imports accounted for slightly over 17% of total U.S. consumption. Since 1979, the importers' share of the market has crept up slightly but is still well below what it was ten years ago.

Recently, the Bicycle Manufacturers Association of America, Inc. initiated an antidumping duty action against imports from Taiwan and Korea. Preliminary determinations as to material injury and dumping have not yet been rendered. If BMA is successful, it would further strengthen the position of domestic bicycle manufacturers in the U.S. market.

Although the bicycle importers' market share is perhaps too high, it palls in comparison with the import penetration sustained by domestic parts makers, who have lost 2/3 of their market to foreign competition.

Most industry analysts consider the domestic bicycle manufacturers very competitive with importers, particularly in the lower priced mass market. Labor productivity is quite high and the manufacturers have shown extraordinary flexibility in adjusting their product lines to the demands of the marketplace.

For additional information regarding the United States bicycle manufacturing industry, reference is made to pages 8 through 12 of the Huffy 1982

annual report and pages 4 to 5 of the Murray Ohio 1981 annual report, copies of which are enclosed herewith.

Position of Huffy in Domestic Bicycle Manufacturing Industry

The growth of Huffy over the past decade has been nothing short of spectacular. Outstanding management, modern and efficient production facilities and excellent marketing strategies account for its success. Its market share has risen from 23% in the early 1970's to the 40% range today.

Huffy's success story has not gone unnoticed within the financial community. The company was recently featured in the September 27, 1982 issue of Forbes Magazine. Although a copy of the article is annexed hereto as Exhibit E, a few points bear special mention. First, the analyst, Jeff Blyskal, notes that foreign competition is really not a significant factor. In comparing the bicycle industry with the auto industry, he makes this observation:

> There is, however, a striking difference between the $1 billion-a-year bicycle business and 100-times-bigger Detroit. While both have faced stiff foreign competition, bikemakers roundly routed their enemy by cutting production costs (Forbes, December 14, 1979). Imports have fallen from 37% of the total market ten years ago to just 25% today.

The Forbes analyst proceeds to view the industry more in terms of a battle between the market leaders, Murray Ohio and Huffy. In this connection, he states:

> There are six major domestic bicycle producers, but the current contest is really between the top two firms, Dayton-based Huffy Corp., which owns 40% of the market, and Murray Ohio Manufacturing in second place with a 33% share. At least two competitors, AMF's wheel goods division and privately owned Schwinn, are rumored to be takeover candidates because of poor performance.

The Forbes article continues by tracing Huffy's dominance in the mass market in the late 60's and 70's and its more recent attention to the independent bicycle dealer market through its acquisition of rights to manufacture and sell the high priced Raleigh line.

The members of CPAA are understandably concerned over the increasing level of concentration within the bicycle manufacturing industry. We do not feel that this trend is conducive to the long term health of the industry.

In determining whether or not to grant sub-zone status to Huffy, we feel it is relevant to consider whether the proposed grantee is an ailing company or the industry leader who possesses awesome financial and marketing power. In all likelihood, Huffy is the low cost producer in the United States. Conferring benefits which effectively reduce its costs even further has drastic implications for the other domestic bicycle manufacturers and, ultimately, the level of concentration within the industry. We urge you to consider these factors. The instant proceeding must not be decided in a vacuum because its potential impact upon the domestic bicycle manufacturing and parts industries is so great.

Employment Effects

The effect of the instant proceeding upon the level of employment in Celina, Mercer County and throughout the United States, although difficult to quantify, is one of the most important areas of concern for the Foreign-Trade Zones Board. CPAA strongly believes that any employment gains achieved by Huffy will be more than offset by employment losses elsewhere in the United States.

The most obvious loss will be employment in the U.S. parts industry. If a special purpose sub-zone is granted to Huffy, the immediate effect will be a significant reduction in the cost of imported bicycle components and a commensurate increase in their use. By Huffy's own calculations, a sub-zone would result in savings in the range of $2,400,000 and this does not include savings from the deferral of duty. In our opinion, the temptation to enjoy even greater savings by purchasing more parts from foreign sources than it does at present would be almost irresistible.

The ability to defer payment of duty until the imported component enters U.S. Customs Territory is a significant cost advantage. On top of this, Huffy will have the option of paying duty at the rate of the finished bicycle upon which the component is assembled. In the case of lightweight bicycles, that rate would be 5 1/2% and for twenty inch bicycles, the rate would be 11%. The current duty rate on most bicycle parts, other than those on the duty suspension list, is 14.2%. Thus, on a lightweight bicycle, Huffy could

achieve an immediate cost savings of 8.7% on many imported components. The savings would even be greater on bicycle tubes where the current duty is 15% and bicycle speedometers where the current duty rate is 23.6%.

As a condition to being granted a special purpose sub-zone, Huffy has committed itself to make substantial capital expenditures for the purpose of safeguarding, warehousing and inventoring its imported bicycle components. This may serve as yet another incentive for Huffy to purchase from abroad in order to maximize its investment.

Because of the high U.S. dollar and the subsidization and dumping by foreign manufacturers, U.S. parts makers are barely able to compete in the present economic environment. If this added cost advantage is extended to our competitors overseas, it will almost surely drive some companies out of business and the employment loss in the U.S. parts industry would far exceed any marginal employment gain to Huffy.

A factory worker's job in Clarksville, Tennessee, or Versailles, Indiana or Bethel, Connecticut is just as important to protect as a factory worker's job in Celina, Ohio. If domestic unemployment were merely shifted from one region of the country to another, that alone might be sufficient grounds for denying the instant application. Still worse, we see the exporting of jobs from this country to our competitors overseas.

It requires much more labor to manufacture a bicycle component than

it does to assemble that component on a bicycle. This is yet a further reason why we do not believe than any nominal employment gains in Celina, Ohio will approach the employment losses in the domestic parts industry.

Further, the loss of employment will have a multiplier effect. Unlike the domestic bicycle manufacturers, U.S. parts makers rely almost entirely upon domestic sources of supply for their raw materials. If parts makers should suffer as a result of this proceeding, so will their suppliers as the full impact works its way through the economy.

As with Huffy, many domestic parts makers are the largest employers in the communities in which their plants are located. If they should go out of business, the effect could be devastating. Huffy is presently a substantial employer and is interested in increasing employment. This is quite a different situation from that which prevails for most U.S. parts producers, namely, outright survival! This fact must be recognized when balancing the benefits to one community against the losses to another.

There are also employment effects upon other domestic bicycle manufacturers who may not qualify for a special purpose sub-zone grant. Competition for the mass market is very intense and the difference of only one or two dollars in the cost of a finished bicycle is critical. As mentioned earlier, Huffy is already the low cost producer in this country and is the largest manufacturer with an extraordinary 40% market share. If one adds to these advantages, the lower cost of foreign components resulting from sub-zone status, Huffy's competitive advantage would be formidable.

The result of such an advantage would more likely be a cannibalization of business from the other domestic bicycle manufacturers than from the bicycle importers. In this connection, see the Forbes article attached as Exhibit E.

Thus, the effect of this proceeding upon other domestic bicycle manufacturers must be considered. If they do not qualify for similar sub-zone benefits, they will probably sustain a loss of business and employment. That, in turn, would have a negative impact upon us, their suppliers. Certainly, this is not to say that the opposite situation would be more acceptable to CPAA. If the other domestic bicycle manufacturers do qualify for sub-zone benefis, the consequences for the U.S. parts industry would be that much more extreme. We are truly in a no win situation.

Finally, the Foreign-Trade Zones Board must consider how this proceeding will affect Huffy's own captive production of bicycle components. The basic question is whether a grant of sub-zone status will lead to vertical dis-integration. An analysis of this issue must go beyond mere expressions of intention. Whether or not to vertically integrate or dis-integrate is an exceedingly complex decision for any company. Many factors must be considered, among them, the cost of capital, the availability of reliable outside sources of supply, price, currency exchange rates and whether a company's volume is sufficient to justify the cost of producing it internally.

Some bicycle components will probably always be produced "in house"

while others may barely justify the capital expense involved. As to these, it is just possible that the reduction in tariff levels on imported components may be sufficient to tip the balance in favor of discontinuing production and purchasing the same item from an overseas supplier.

Suffice it to say that the reduction in tariffs on bicycle components, insofar as it reduces the cost of those items, has the effect of making them that much more attractive in comparison with producing them "in house." As such, it can at least be said that this is a factor against vertical integration and this, in turn, may affect some of the employment assumptions in the application.

The Adjacency Requirements

CPAA strongly feels that a grant of sub-zone status in this proceeding would not satisfy the adjacency requirements of the Foreign-Trade Zones Board. Further, we believe that this would be an inappropriate case to extend those requirements.

U.S. Customs inspectors have told us that the provisions classifying bicycle parts are among the most complicated in the Tariff Schedules of the United States. Several classification and value cases have been litigated and countless protest actions are filed each year.

Most of the classification problems pertain to whether a particular

imported component is on the duty suspension list or is, at least, a part of an item on that list. If it is, the part comes in duty free. If it isn't, the importer may have to pay a duty of 14.2%. Obviously, the stakes are quite high and importers do everything possible to enter bicycle parts at the most advantageous rate.

Often, the distinction between dutiable and duty-free is based upon an extremely fine nuance requiring considerable expertise on the part of the customs inspector. The CPAA receives calls from customs posts all over the United States seeking our opinion regarding a specific classification issue. We have earned a reputation for being candid and honest in our dealings with Customs. If there is substantial doubt as to the appropriate classification of an item, we do not hide that fact. By the sasme token, we rely heavily upon Customs to ensure that merchandise is entered under the appropriate classification and is correctly appraised.

Last year, there was a significant retrenchment within Customs because of budget cutbacks. All of the import specialists were assigned greater caseloads and their expertise over our product lines necessarily declined. We have reason to believe that this situation has been largely rectified. However, it did teach us an important lesson, namely, that a strong, vital and adequately staffed Customs force is essential in order to safeguard our interests. We view U.S. Customs as our first line of defense. The duty rates set forth in the TSUS are of no consequence unless they are properly enforced upon all importers. We have great concern whether Customs could exert sufficient supervision to guarantee this for a sub-zone so distant from

the nearest port of entry.

In its application, the Greater Cincinnati Foreign-Trade Zone, Inc. states that Huffy's facility is approximately sixty miles from Cox Municipal Airport. It also states that the Dayton Port of Entry is adjacent to the Cincinnati Port of Entry. To our knowlege, Huffy is quite a bit further away from the closest port of entry than is any sub-zone presently in existence. Simply stated, Celina is just too far from Cox to be adequately administered by U.S. Customs. The distance between the Huffy facility and the Greater Cincinnati Foreign-Trade Zone is even greater. We feel that it is an unreasonable extension of the Foreign-Trade Zone Law to allow a foreign trade zone in one city to sponsor a facility more than eighty miles away based upon its proximity to the port of entry of another city. This is carrying the concept of adjacency too far and it would establish a most inappropriate precedent for other pending and future sub-zone applications.

Other Factors to be Considered

One of the primary purposes of the Foreign-Trade Zone Law is to promote international trade or commerce. Because of the domestic bicycle industry's import sensitivity, it has never performed well in foreign markets. Attached hereto as Exhibit F is a table showing bicycle exports during the period 1972 to 1982. In contrast with domestic consumption, total exports are de minimus, never accounting for more than 1.5% of total shipments. In this respect the bicycle manufacturers are frustrated in their efforts to

export by many of the same factors which make them import sensitive in their home market. Among these are the high U.S. dollar and the dumping and subsidization of manufacturers in other countries. U.S. bicycle manufacturers are further disadvantaged by shipping rates which can be twice as high from New York to Europe than from Europe to New York. Finally, other countries have tariff and non-tariff barriers which stand in the way of increased exports from the U.S.

Perhaps someday in the future, exports will figure importantly in the total picture but there is little on the immediate horizon to suggest this. In our opinion, granting Huffy sub-zone status is not likely to materially affect its export potential so we cannot view this as one possible benefit for the domestic cycle parts industry.

It has been stated many times that a sub-zone is granted where the foreign-trade zone itself cannot accomodate the particular facility in question. In Armco Steel Corp. v. Stans, 303 F. Supp. 262 (S.D.N.Y. 1969), aff'd, 431 F. 2d 779 (2d Cir. 1970), the Court of Appeals stated, at p. 788:

> Had the existing trade zone not been operating at full capacity and suitable shipbuilding facilities been available within its defined borders, there would have been no need to provide space and facilities elsewhere in the Port of New Orleans.

Again, in an article which appeared in the Fall 1980 issue of The Maritime Lawyer, entitled "United States Foreign-Trade Zones: Adapting to Time and Space," John J. Da Ponte, Jr. stated on page 205: "Once a zone

is approved for a port of entry, additional zones can be approved only if existing facilities cannot adequately meet the needs of commerce." (Emphasis added). A statement to the same effect is contained in the 42nd Annual Report of the Foreign-Trade Zones Board.

These statements seem to suggest that the preexistence of a facility alone is not sufficient grounds for justifying sub-zone status. Something more must be shown by the sponsor in terms of need for a given sub-zone and why the activity can't be performed within the zone itself. However, the application of the Greater Cincinnati Foreign-Trade Zone is silent on this issue. This office received material from the Greater Cincinnati Foreign-Trade Zone which strongly suggests that there is ample room within the zone itself for a bicycle manufacturing facility.

Finally, CPAA takes strong exception to the implication that domestic bicycle manufacturers are being disadvantaged by what they allege to be higher tariffs on bicycle parts than on imported bicycles. If anything, the opposite is the case.

According to research by the House Ways and Means Committee, fully 42% of all bicycle components imported last year came in duty free. Thus, while the official duty rate on bicycle components may range from 12.8% to 14.2%, the effective duty rate is much lower. Indeed, on a weighted average basis, the duty rate on bicycle components is lower than the duty rate on finished bicycles.

Further, a bicycle importer is required to pay duty on the full value of the bicycle including components which, if imported separately, would be duty free. This further adds to the selling price of an imported bicycle in this country and lessens the impact of any disparity between duty rates on bicycles and parts.

In the past, the CPAA has supported the duty suspension bill. We saw it as a means for domestic manufacturers to reduce the cost of components which are not available from any domestic source and thereby improve their overall competitiveness. As a result of the duty suspension bill, a state of parity exists between the duty rate on finished bicycles and components. It is disappointing to us to find no reference to this fact and, indeed, to suggest the contrary, namely, that Huffy is being disadvantaged by higher duty rates on bicycle components.

Summary

The members of CPAA want their customers, the domestic bicycle manufacturers, to grow and prosper. However, we feel that actions which only serve to undermine the health and vitality of the domestic cycle parts industry will not serve the long term interests of the bicycle manufacturers.

The fact that we need the bicycle manufacturers is obvious. The fact that they need a strong domestic parts industry may be less obvious but equally important to their long term survival. An excessive reliance upon foreign sources of supply will create a condition of extreme vulnerability for

them. On many occasions, we have witnessed the demise of a parts producer because of fierce price competition from an overseas competitor. Once that domestic producer left the scene, the prices of its overseas competitor suddenly began to levitate! We accept competition as a way of life but the corrosive effects of predatory pricing are damaging, not only to us but to the bicycle manufacturers as well.

Price vulnerability is only one factor. Traditionally, domestic parts makers operate with very short lead times. Our members adapt their production schedules to the needs of their customers which often may change with little advance notice. Our flexibility and reliability are strong selling points. When a bicycle manufacturer deals with an overseas source of supply, it must plan its purchasing commitments months in advance. Long lead times, shipping schedules and letters of credit inhibit a manufacturer's flexibility. Also, manufacturers must contend with supply shortages which sometimes hit the industry, especially during periods of good business. An entire assembly line might be shut down for the want of a single component. This is exactly why a strong and healthy parts industry is so vital to the future success of the domestic bicycle manufacturers. Although we think they recognize this fact, they may not fully comprehend just how harmful a duty reduction on components would be for our industry.

When Huffy settled in Celina, Ohio many years ago, it had absolutely no expectation of being granted a sub-zone. Indeed, the Greater Cincinnati Foreign-Trade Zone was not then in existence. In Celina, Huffy found a

stable and eager work force and a location convenient to both its principal markets and sources of supply.

Huffy has provided gainful employment to the residents of Mercer County during good times and bad. Whether or not Huffy is granted a sub-zone, its total employment is almost certain to increase as we pull out of this recession and conditions in the bicycle industry improve. We wish we could say the same for many of our members.

Being granted a sub-zone is a matter of privilege, not entitlement and we feel that this is not a proper occasion to grant such a privilege. The Greater Cincinnati Foreign-Trade Zone has failed to make a compelling case for sub-zone status and we urge the Foreign-Trade Zones Board to deny its application.

Respectfully submitted:

Cycle Parts & Accessories Association, Inc.

Robert Auerbach

By: Robert Auerbach, General Counsel

C.P.A.A.
CYCLE PARTS AND ACCESSORIES ASSOCIATION, INC.
122 EAST 42nd STREET NEW YORK, N.Y. 10168 (212) 697-6340

EXHIBIT A

CYCLE PARTS AND ACCESSORIES ASSOCIATION, INC.

1982 MEMBERSHIP ROSTER

ABS INDUSTRIES, INC.
P.O. Box 630
Willoughby, Ohio 44094
(216) 946-2274

2100 Goshen Road
Suite 237
Fort Wayne, Indiana 46808
(219) 483-5255

AMERACE-EMCONITE DIV.
3445 N. Kimball Avenue
Chicago, Illinois 60618
(312) 267-3100

5726 Professional Circle
Indianapolis, IN. 46241
(317) 244-6821

AMERACE BRANDS DIV.
1201 Mark Street
Elk Grove, Illinois 60007
(312) 595-7250

ASHTABULA FORGE
4212 Ann Avenue
Ashtabula, Ohio 44004
(216) 992-3175

AMERICAN CYCLE SYSTEMS, INC.
1449 Industrial Park Street
Covina, California 91722
(213) 331-0582

GRABER PRODUCTS, INC.
5253 Verona Road
Madison, Wisconsin 53711
(608) 274-6550

THE BENDIX CORPORATION
Bicycle & Ignition Components Div.
401 Bendix Drive
P.O. Box 4001
South Bend, Indiana 46634
(219) 237-2635

CARLISLE TIRE & RUBBER CO.
P.O. Box 99
Carlisle, Pennsylvania 17013
(717) 249-1000

COLFOR, INC.
P.O. Box 485
Malvern, Ohio 44644
(216) 863-0404

ELRAE INDUSTRIES, INC.
11035 Walden Avenue
Alden, N.Y. 14004

EXCEL, INC.
9362 West Grand Avenue
Franklin Park, Illinois 60131
(312) 451-1350

PERSONS-MAJESTIC MFG. CO.
Faulhaber Division
21 Hamilton Street
Monroeville, Ohio 44847
(419) 465-2504

HARTFORD BEARING CO.
951 West Street
Rocky Hill, Connecticut 06067
(203) 529-7441

HUNT-WILDE CORPORATION
Pan American Plastics Div.
2835 Overpass Road
Tampa, Florida 33615
(813) 623-2461

THE J.C.I. AGENCY
904 South Nogales Street
City of Industry, California 91744
(213) 965-4919

KOOL-STOP SAFETY BRAKE
P.O. Box 1304
Lake Grove, Oregon 97034
(503) 636-4673

MESINGER MANUFACTURING CO.
Durant Avenue
Bethel, Connecticut 06801
(203) 743-6714

NATIONAL BEARINGS COMPANY
Manheim, Pike and Flory Mill Road
P.O. Box 4726
Lancaster, Pennsylvania 17604
(717) 569-0485

OHIO ROD PRODUCTS
P.O. Box 416
Versailles, Indiana 47042
(812) 689-6565

SOUTH BEND FORGE
P.O. Box 4220
South Bend, Indiana 46634

STEWART-WARNER CORP.
1826 Diversey Parkway
Chicago, Illinois 60614
(312) 883-6000

SUN METAL PRODUCTS, INC.
P.O. Box 1508
Warsaw, Indiana 46580
(219) 267-3281

THUN, INC.
Clarksville, Tennessee
(615) 552-4011

TI STURMEY-ARCHER OF AMERICA, INC.
1014 Carolina Drive
West Chicago, Illinois 60185
(312) 231-5150

TROXEL MANUFACTURING CO., INC.
Moscow, Tennessee 38057
(901) 877-6875

WALD MANUFACTURING CO., INC.
P.O. Box 10
Maysville, Kentucky 41056
(606) 564-4077

CPAA HEADQUARTERS OFFICE
122 East 42nd Street
New York, N.Y. 10168
(212) 697-6340

EXHIBIT 8

COMPARISON OF BICYCLE PARTS IMPORTS WITH DOMESTIC SHIPMENTS OF FINISHED BICYCLES

YEAR	PARTS IMPORTS	BICYCLE SHIPMENTS
1972	$125,236,334	8.7 million units
1973	168,957,071	10.1
1974	198,029,435	10.1
1975	70,109,239	5.6
1976	111,953,944	6.5
1977	125,144,916	7.5
1978	145,371,678	7.5
1979	181,572,002	9.0
1980	207,102,947	7.0
1981	211,339,206	6.8
1982 (Thru July)	87,180,422	3.1

Source: United States Department of Commerce
Bicycle Manufacturers Association of America, Inc.

EXHIBIT C

U.S. BICYCLE MARKET

1972 - 1982

(millions of units)

Year	Domestic Shipments Less Exports	Imports	Total Domestic Apparent Consumption	Imports as Percentage of Total
1972	8.7	5.2	13.9	37.0%
1973	10.0	5.2	15.2	33.8%
1974	10.1	4.0	14.1	28.2%
1975	5.6	1.7	7.3	23.6%
1976	6.1	1.7	7.8	21.4%
1977	7.4	2.0	9.4	20.9%
1978	7.4	2.0	9.4	20.9%
1979	9.0	1.9	10.9	17.2%
1980	6.9	2.0	8.9	23.0%
1981	6.7	2.1	8.8	23.7%
1982 (Thru July)	3.1	1.0	4.1	23.9%

Source: United States Department of Commerce
Bicycle Manufacturers Association of America, Inc.

EXHIBIT D

IMPORTERS' SHARE OF U.S. BICYCLE MARKET

1972 - 1982

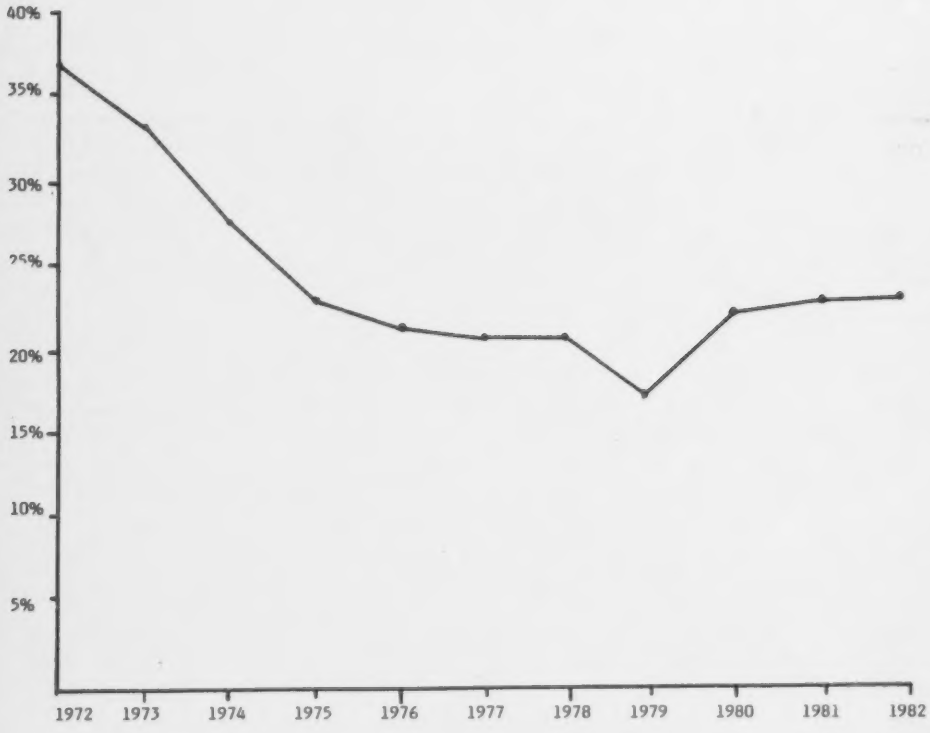


EXHIBIT E

If foreign automakers weren't around, life would be easy in Detroit, right? Before you answer, read about what's happening today in the bicycle industry.

Is this business built for two?

By Jeff Blyskal

THE NEW JERSEY DEALER WALKS his sales floor glumly. Unsold 1982 models rest fender-to-fender on tires so clean they still smell like freshly pressed rubber. The chrome sparkles like jewelry. "People just aren't buying," he complains.

These aren't cars, they're bicycles, and people who sell them are feeling the recession, too. There is, however, a striking difference between the $1 billion-a-year bicycle business and 100-times-bigger Detroit. While both have faced stiff foreign competition, bikemakers roundly routed their enemy by cutting production costs (FORBES, *Dec. 14, 1979*). Imports have fallen from 37% of the total market ten years ago to just 25% today.

But that doesn't mean everyone can go home and relax now; in fact, the fighting among domestic manufacturers is all the more intense. Industrywide, bicycle sales are off 38% from 1979. Blame the economy in part, but also blame video games. Kids are using their quarters to play Pac-Man, and these days expensive home video games get a better reception under the Christmas tree than a shiny two-wheeler.

There are six major domestic bike producers, but the current contest is really between the top two firms, Dayton-based Huffy Corp., which owns 40% of the market, and Murray Ohio Manufacturing in second place with a 33% share. At least two competitors, AMF's wheel goods division and privately owned Schwinn, are rumored to be takeover candidates because of poor performance. Meanwhile, Columbia, a subsidiary of privately held MTD Products, is becoming surprisingly aggressive.

The battle between Huffy and Murray began in the mid-Sixties. Then Huffy was a clear number two but saw the burgeoning potential of serving fast-growing discounters such as K mart, Woolco and Target and chains such as Toys 'R' Us and Child World. Industry leader Murray had always done a big business making private-label bikes for Sears and Penney—but the market was growing faster elsewhere, and Huffy acted first. "They've always been more aggressive," explains Katie Gambill of Nashville's Equitable Securities.

By the early Seventies Murray was still ahead, with an almost 30% market share, but Huffy—about 23% and growing—was closing the gap. In 1972 Stuart Northrop, who had been president of a Singer division, became president, and again Huffy was first to see an important trend: Consumers wanted name-brand bikes more than store brands. So Northrop started advertising on television to develop the Huffy label. "We took a mundane business with standard colors and made it into a fashion business, like automobiles," says Huffy CEO Harry Shaw. Today, 60% of Murray's bikes are still lower-margined private-label merchandise. Huffy, meanwhile, is the bestselling bike brand in America—ahead even of Schwinn, the most widely recognized name.

"Ten years ago, when people asked me for an American bike, they wanted Schwinn," says Sal Corso, owner of New York's Stuyvesant Bicycle, which sells some 10,000 bikes per year. "Today they ask for Huffy. And believe it or not, even with all my selection—3,000 bikes in inventory—I had one customer walk out because I didn't have a Huffy Thunder Road."

During the bike boom of the early Seventies, both Huffy and Murray boosted capacity and automated production, building a cost advantage that helped them knock off competitive imports. But in 1973 Huffy eyed another important trend in kids' bikes—half a decade before Murray. It quickly developed a "knockoff" of the motorcross MX bicycle, a ground-hugging, knobby-tired racer for kids, which resembles a motorcycle dirt bike. Today, the successor BMX version, which retails between $70 and $300, is the only

Lacing wheels at a bicycle factory
Recession, stiff competition—but how to beat Pac-Man?

Psst. Wanna bike that can't miss?

It should be no surprise that the recession has given bicycle sales a flat tire. Just four years ago Americans purchased 10.8 million bikes; this year they might buy 6.7 million. But one style of bike—the BMX, short for bicycle motorcross—is still charging hard. This year an estimated 2.7 million BMX bikes will be sold in the U.S., up from 2.2 million in 1979. "BMX is strong as hell," says Bill Quinn, publisher of *Bicycle Journal*.

The bike was created in a southern California field in 1970 by children imitating motorcycle dirt bike racers. Today, it has spawned a racing cult with some 100,000 active participants and six official sanctioning groups. The daredevil design—20-inch wheels, deep-tread tires, padding, no fenders—also makes the BMX a popular way for the under-15 set to get around, but for many kids the BMX is a second bike primarily used for fun.

That means racing. BMX owners generally meet at a local track on Saturdays and Sundays. Starting on a hill, the racers snake around 600- to 1,000-foot dirt tracks containing a grueling obstacle course of jumps, dips and banked turns. A top racer can finish 36 grimy seconds after leaving the starting gate. "It's an excellent sport that involves the whole family," says Larry Greer of the American Bicycle Association, a 75,000-member BMX sanctioning group.

There are over 600 active BMX tracks, and the sport is attracting cable television coverage. This year Entertainment Sports Programming Network began televising races; it may also be in Oklahoma City at Thanksgiving for the BMX Grand Nationals.

As if additional plugging were necessary, BMX bike sales got an extra boost in the climactic chase scenes of *E.T.: The Extra-terrestrial*. In the movie, a phalanx of preteens takes to BMXs to help spirit E.T. away from the authorities and back to his spacecraft. In the process they jump cliffs and hills, cut off police cars and slip-slide through the dirt of a construction project, before finally flying into the air Peter Pan-like at the hands of E.T.'s mysterious powers. In the movie you can't really tell those are foreign-made bikes, says Huffy's Harry Shaw. "So it's a boost for everyone who sells them."—J.B.

E.T.'s *two-wheeled chase scene*
The BMX gets a boost from Hollywood.

bright spot in the market *(see box)*.

Huffy's alert boldness translated into its market leadership during the mid-Seventies—and Murray Ohio has only recently begun to see the sense in Huffy's strategy. One reason is John Duncan, who moved from Singer to become Murray's executive vice president in 1978. Around that time the company boosted advertising to lift Murray's brand identity and copied Huffy's use of independent sales reps. "Duncan was the worst thing that could have happened to Huffy," says one industry expert. Luckily—for Huffy—Duncan "resigned" last January after "management style differences" with William Hannon, Murray's hard-nosed chairman, who controls 7.2% of the company's stock. Duncan, now back at Singer, won't comment, and Hannon refuses to discuss Murray's strategy.

Huffy, meanwhile, is making yet another aggressive move. In April it acquired the right to manufacture and sell the high-priced TI Raleigh line in bicycle shops, a high-margin 25% segment of the market ignored by the mass manufacturers until now. This move, however, may expand Huffy's market for its low-priced bikes, too. "To survive in the future, bike dealers and manufacturers will have to cover all the markets," says Corso.

That puts pressure on Murray—it needs a big-name brand to sell high-priced models. "Huffy has put its cards on the table and said, 'Here's where the market is going,' " says Ed Schwinn. "If they're right, Murray will have to make a similar move." But what? One possibility is a Murray/Schwinn merger, although Schwinn says his company is not for sale.

All of Huffy's fancy, fast riding, of course, has not been without risk. Last spring, in what Shaw admits was an attempt to gain market share, the company took a flip over the handlebars. Looking for a midyear recovery, Huffy cranked up production. Murray waited. When the economy didn't act as expected Shaw was stuck with a lot of bikes—30% more than needed. That's why Murray posted a $1.1 million profit in the June quarter to Huffy's $1.8 million loss.

The race is for more than just three months, however, and over the decade Huffy's gains have filtered down to investors. Anyone who paid the rock-bottom price of near 6 for Huffy in 1972 would have nearly doubled his money, even with the stock at its current 39-month low of 10. Murray shareholders, however, paid about 20 at the bottom in 1972. Price today: 14¾. Victory goes to the swift. ■

EXHIBIT F

U.S. BICYCLE EXPORTS

1972 - 1982

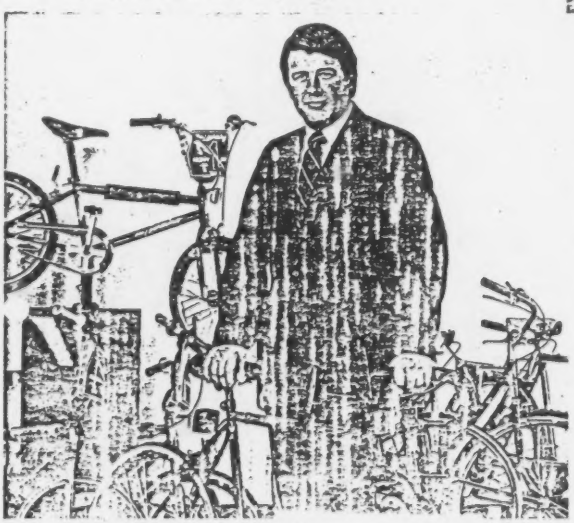
YEAR	NUMBER OF UNITS	PERCENTAGE OF DOMESTIC SHIPMENTS
1972	9,698	.1%
1973	16,977	.2
1974	34,741	.3
1975	30,082	.5
1976	40,662	.7
1977	38,669	.5
1978	73,446	1.0
1979	52,035	.6
1980	92,494	1.3
1981	90,649	1.3
1982 (Thru July)	23,976	.8

Source: United States Department of Commerce

EXHIBIT B

Keeping Huffy fit

That's the job of Harry A. Shaw III, president and chief executive officer of Huffy Corp.

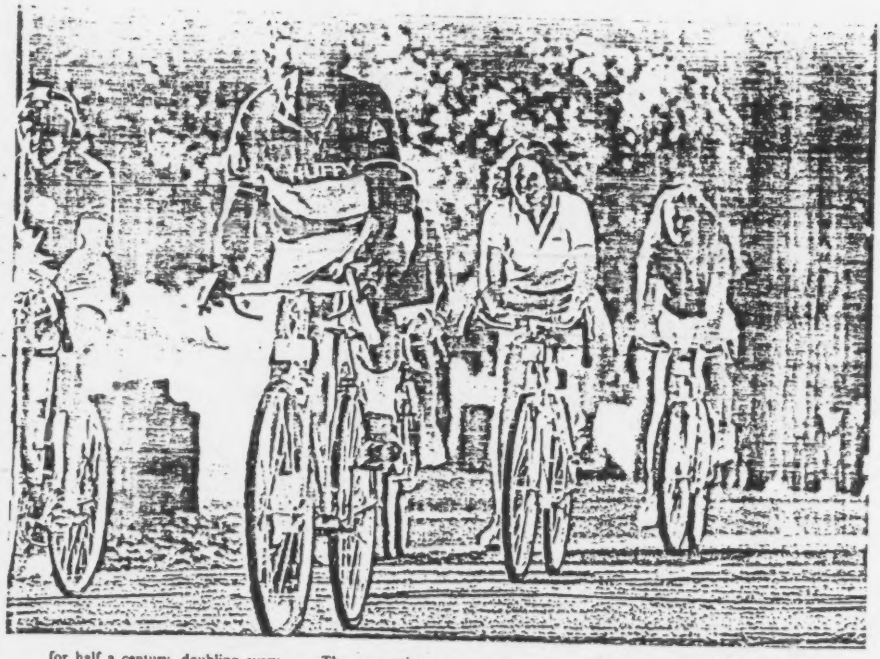


By Lys Ann Shore

Back in 1928, when the Huffman Manufacturing Company of Dayton was founded, words like 'fashion' and 'performance' weren't generally associated with bicycles. But today at Huffy Corp. (the name was changed in 1977), fashion and performance are two of management's top priorities. Huffy is this country's largest manufacturer of bicycles, with a current domestic market share of 40 percent. And Huffy intends to keep its leadership position in the industry, through aggressive market positioning and new product development.

With executive offices in Miamisburg, Huffy operates manufacturing facilities in Celina, Ohio (near Dayton); Ponca City, Oklahoma; and Milwaukee, Wisconsin. Late last year, the company closed its bicycle manufacturing plant in Azusa, California.

The U.S. bicycle industry boomed



for half a century, doubling every decade from the 1920s through the 1970s. That translates into a growth rate of 7 percent compounded annually. Huffy Corp. grew with the industry. But with the 1979-80 season, a downturn began that has continued right through the end of 1982. "Last year," says Harry A. Shaw III, Huffy's president and chief executive, "the industry was down 26 percent. But we feel some recovery is taking place now, and our projection is that the industry will jump back over the course of 1983."

In spite of the recession, the 1981 spring season was strong. Spring demand normally outpaces the manufacturer's production capacity. Accordingly, Huffy geared up for a similarly strong season in '82—which never materialized. Weak sales left Huffy overstocked; as a result, the company slashed its production levels during the second half of 1982 in order to reduce inventory.

The corrective seems to have worked: Some 500 employees were called back to Huffy plants in January, and production has recovered to about 75 percent of capacity.

Some of the blame for the slow season is placed on mass market retailers. As Shaw explains, "Bicycles sell well when they're advertised, and the mass merchants were spending their advertising dollars on electronic video games rather than bicycles. The effect of that competition was felt in both the spring and fall seasons in 1982."

At present, Huffy is moving cautiously into the 1983 spring selling season. "We are intending to build some inventory this spring," Shaw says, "but we won't build it up to last year's level."

As a direct result of the 1982 cutbacks, Huffy registered losses for the first two quarters of its current fiscal year (which began July 1, 1982). Losses totaled $1.6 million, or 40 cents per share, in the first quarter, and $1.7 million, or 43 cents per share, in the second quarter.

It seems clear that the phenomenal growth of the past half-century will not return the bicycle industry, and manufacturers and suppliers have begun to reassess their role within the industry. As Shaw puts it, "The industry still has growth in it but we would not anticipate a return to earlier growth rates."

For Huffy, rethinking has already led to action. The company has signed an agreement with TI Raleigh Industries Ltd. of Great Britain which gives Huffy the exclusive right to manufacture and sell the well-known Raleigh line of bicycles in the United States.

The agreement opens a new market to Huffy, the specialty bike shops. Huffy's share of the domestic bicycle market until now has remained entirely within the mass-market retail segment (which

(continued on page 53)

forms 75 percent of the total domestic market). Facing the prospect of sluggish growth in the industry, Huffy saw expansion into another area of the market as the doorway to continuing growth for the company. "We might be able to increase our share of the total market," Shaw muses, "but that would be difficult and expensive. On the other hand, the specialty bicycle market is 25 percent of the total market, and we have not had access to that before."

The Raleigh connection was right for Huffy, Shaw explains, because of Raleigh's reputation in this country for high-quality, high-performance bicycles. Raleigh, which had once had manufacturing facilities in this country, had abandoned production here in favor of just a distribution system. "Raleigh dealers have been excited by our ideas for sprucing up the design and marketing of the product," says Shaw. Huffy has not yet begun to manufacture the Raleigh line.

BMX racers boost image

In another move to increase its penetration and visibility in what might be termed the "upscale" bicycle market, Huffy Corp. has begun sponsorship of a professional bicycle racing team.

Bicycle Motocross (BMX) racing is one of this country's fastest growing sports, with about 400,000 participants. It began as a West Coast fad as early as 1973 and uses single-speed bikes on dirt tracks.

The BMX grand national meet was held last Thanksgiving in Oklahoma City with participants from 22 countries. Among them was the Huffy BMX Racing Team, including John Piant who was the 1982 winner of the Anglo-American BMX Championship held in England.

The team promotes Huffy's products as well as its image, since Huffy produces a whole line of Motocross bicycles. As Shaw points out, "Until we got involved in this sport a Huffy bike was looked on as an ordinary bike you'd get at a discount store. The racing team increases our credibility because our bikes are now seen as winners." The BMX team has had the greatest effect, Shaw says, on "a whole new group of people who have become very sophisticated about bikes"—the eight- to fourteen-year-old set.

Huffy expects BMX racing—and its own Motocross bicycles—to continue to gain in popularity. And Huffy has a tradition of right guesses about trends. In the late '60s, Huffy was the first manufacturer to begin producing the high-rise bikes (Remember them, with banana seats and handlebars you had to stretch for?) that West Coast bicycle shops were customizing. The basic idea was to make bikes look like motorcycles, so Huffy began to develop tires and other features to suit the new look.

In the early '70s, young adults discovered bicycling in the form of the ten-speed lightweight bike. "Prior to 1971, we were shipping about 5 percent of our line in lightweight bikes," Shaw recalls. "By 1973 that figure had risen to 60 percent.

"In 1971, the lightweight bike was black or dark green, and one looked a lot like another. By 1973, we had revolutionized the industry with our Scout, a color-coordinated yellow bike. Ever since then, that's the way the industry has gone."

As a testimony to the fashion edge achieved by Huffy, Shaw cites figures: Huffy's 1972 market share of 22 percent, compared to today's 40 percent; the product line of some 40 models which in the past decade has risen to about 60 different models.

Facing import pressures

Treating bicycles as a fashion business also helped Huffy in the import arena. "Importers weren't geared to the concept," says Shaw. "They would copy us a year or two late." Imported bicycles, which in 1972 accounted for 37 percent of the U.S. market, declined to about 20 percent.

Now, however, renewed pressure from imports is severe—and, some say, unfair. Shaw explains it this way: "In the '70s, the importers (Taiwan, Japan, and European countries) turned to supplying the specialty bicycle shop market with high-priced products. Since 1980, however, because of the slow international market and the increasing dominance of mass marketers in this country, the importers have come back into the market with what we feel is predatory pricing." The Bicycle Manufacturers Association recently asked the International Trade Commission to investigate possible dumping of bicycles by Taiwan and Korea. The commission has decided that the case of Taiwan warrants further investigation.

Interestingly, the export market for U.S. bicycle manufacturers is practically nil. In 1982, this country exported a total of only 50,000 bikes. (By comparison, the U.S. imported an estimated 1.7 million bicycles in 1982). According to Shaw, "Almost every country in the world has a domestic bicycle business. There are protective barriers set up almost everywhere we ship." A strong U.S. dollar, of course, just makes a hard job tougher.

Huffy has broadened its horizons to include businesses it sees as complementing the bicycle business. Bikes aren't just for play or transportation any more; instead, they form part of our national craving for physical fitness. Fitting into the fitness boom are Huffy's other endeavors which include backboards for basketball hoops (of which Huffy is the largest manufacturer in the country), exercise bicycles (of which Huffy holds a market share of better than 10 percent, thanks to a 1978 acquisition), as well as weight benches and home fitness centers. The latter two items formed part of a California company whose assets Huffy acquired last year. Huffy is moving production of the items to its Milwaukee plant and plans to market them under the Huffy name.

Rowing machines and a new line of exercise bicycles are being added to the product line this season.

"We see home physical fitness as a high-growth industry," comments Shaw, who views the trend as a reflection of the young adult population trying to delay the aging process.

Huffy's moves into higher-growth businesses which complement its bike business have been partly funded by the company's divestment last year of its auto-related division which had manufactured gasoline containers and automotive service equipment at a facility in Delphos, Ohio. ■

Chairman GIBBONS. Thank you, Mr. Auerbach.

Mr. Archer.

Mr. ARCHER. I have no questions, Mr. Chairman.

Chairman GIBBONS. It appears to me we have some problems with these foreign trade zone laws. We do not get into them very often. It is regrettable that you find yourselves in the position you are in.

As I understand the situation, the administration opposes the enactment of the Perkins bill by saying that you have an administrative remedy. You say that the administrative remedy will not do you any good because: One, the administration has never turned down a foreign trade zone as far as you can tell; and two, it would take too long and by the time you got your remedy you would be dead anyway.

Where do most of these competitive parts come from?

Mr. AUERBACH. Last year from 31 different countries.

Mr. STAYIN. Primarily from Taiwan, Japan, India, and Korea.

Chairman GIBBONS. I have seen the Chinese bicycle industry and it is mammoth. It is huge. I believe they make a third of a billion bicycles in China—all in the color of black. I do not know how they tell them apart.

We will try to figure this one out. I do not know what we are going to do, but we are going to have to look at its impact upon other industries. Essentially, what you are afraid that Huffy will do is import more and more foreign manufactured parts, assemble them, and exclude you entirely under the guise of using the foreign trade zone to export. Is that it?

Mr. STAYIN. Yes, sir.

Mr. AUERBACH. They would be poor business people if they did not do that.

Mr. STAYIN. The purpose of the foreign trade zones, though, as far as our research indicates is to promote exports, and that is why we feel that Congress really needs to look at this.

Chairman GIBBONS. It was designed to bring in a product, add value to it and reexport it. Does Huffy export any bicycles now?

Mr. STAYIN. The word is nil I think.

Chairman GIBBONS. Is Huffy still here? Do you export any bicycles now?

Mr. WIELAND. We have had an active export program. Fortunately or unfortunately, depending upon your point of view, the strengthening of the U.S. dollar has made exports of bicycles by anyone from the United States virtually impossible at the current time.

Mr. AUERBACH. Sir, Huffy is quoted in the March issue of Ohio Business as saying that the prospects for export of American bikes is practically nil. We are submitting a copy of that statement with our report, and I——

Mr. PAWSAT. Mr. Chairman, in the same article it says in 1982 this country has exported a total of only 50,000 bicycles. By comparison, the United States imported 1.7 million bicycles in 1982. According to Mr. Shaw, Huffy's president, almost every country in the world has a domestic bicycle business. There are protective barriers set up almost everywhere we ship. A strong U.S. dollar, of course, just makes a hard job tougher.

Fifty thousand bikes and Huffy's percentage of it would be maybe 1 day's production. It is insignificant.

Mr. GUFFEY. Mr. Chairman, on that point I think that since this bill allows for the duty-free status when you are exporting, I think it could be fairly said that the establishment of this zone or the lack of enactment of this bill would not add any jobs whatsoever, but we very consciously estimate in this group that the failure to have this bill combined with the trade zone being allowed would affect somewhere between 5,000 and 10,000 jobs would disappear in this country associated with parts and original bikes.

Chairman GIBBONS. Thank you gentlemen. Untangling this rope is going to be easier than untangling this bicycle thing. I appreciate your coming. I do not want to steal your tubes up here. My legs are kind of long for these anyway.

We are going to have to vote in just about 2 minutes. Let us take the National Automobile Association and Mr. Stark's automobile theft prevention bill. I notice that both of you gentlemen support his bill and that the administration supports Mr. Stark's bill. I do not know why we ought to talk it to death, but please come on up here and we will put your statements in the record.

Mr. Messmer and Mr. Gilliland, both of you support Mr. Stark's bill; is that right? Go ahead and summarize your statements very briefly, and we will put your statements in the record.

STATEMENT OF PAUL W. GILLILAND, PRESIDENT, NATIONAL AUTOMOBILE THEFT BUREAU

Mr. GILLILAND. Mr. Chairman, I am president of the National Automobile Theft Bureau, and we are a crime prevention organization which assists law enforcement and other Government authorities in the investigation and location of stolen vehicles and their uniquely identifiable parts.

You have entered our statement into the record as such, and we support H.R. 1744. Just by way of a very brief summary, in 1982 all property crimes decreased 4 percent. Motor vehicle theft decreased 3 percent. There were still over 1 million vehicles stolen in the United States in 1982, and approximately 55 percent of the value of these vehicles was recovered.

Off-road construction, agricultural machinery reflected a significantly smaller recovery, and the unrecovered vehicles are principally impacted by four major criminal activities: the illegal exports, the chop-shop operations, professional counterfeiting of documents, and changing of fraudulent identities and fraudulent theft reporting.

The exact volume of export traffic is unknown because there are no existent effective measures or controls. The vehicle's identification currently is not required to be examined, recorded, retained, or checked against available theft indices.

The exporting party's identity is seldom verified for authenticity. Shippers export declarations are presently required to be filed with customs no later than 72 hours after the vessel has sailed. This makes comparison between the document and the vehicle impossible.

[The prepared statement follows:]

STATEMENT OF PAUL W. GILLILAND, PRESIDENT, NATIONAL AUTOMOBILE THEFT BUREAU

SUMMARY

Mr. Chairman, members of the subcommittee, my name is Paul W. Gilliland. I am president of the National Automobile Theft Bureau.

The NATB is a crime prevention organization which assists law enforcement and other governmental authorities in the investigation and location of stolen vehicles, vessels and their uniquely identifiable parts.

Mr. Chairman, in the interest of time I have prepared a statement for the record and would request that it be admitted.

The National Automobile Theft Bureau endorses and supports H.R. 1744.

In 1982, all property crimes decreased 4 percent.

Motor vehicle theft decreased only 3 percent.

There were still over one million vehicles stolen in the United States in 1982.

Approximately 55 percent of value of these vehicles was recovered.

Off-road, construction and agricultural machinery reflected a significantly smaller recovery.

The unrecovered vehicles are principally impacted by four major criminal activities:

(1) Illegal exports; (2) Chop shop operations; (3) Professional counterfeiting of documents and changing of vehicle identities; and (4) Fraudulent theft reports.

The exact volume of export traffic is unknown because there are no existent effective measures or controls.

The vehicles identification currently is not required to be examined, recorded, retained or checked against available theft indices.

The exporting parties identity is seldom verified for authenticity.

Shippers export declarations are presently required to be filed with Customs no later than 72 hours after the vessel has sailed. This makes any comparison between document and vehicle impossible.

Sealed containers known as containerized freight are often used as a means to export stolen vehicles and parts. These containers are seldom opened upon presentation by the exporter.

A few years ago, over 100 stolen vehicles were intercepted at Port Newark, New Jersey destined for export to Kuwait. The value of these vehicles conservatively presented a potential loss to United States citizens in excess of $228,000.00.

About the same time, over 52 stolen motor vehicles were located at Port Miami docks, scheduled for export to Haiti. The value of these vehicles was conservatively estimated at approximately $146,000.00.

It is of interest to note that approximately two years ago United States Customs accelerated their checking of vehicles being exported from West Coast ports. Shortly thereafter, 31 stolen disguised vehicles were located at the port of Houston, Texas destined for export to Kuwait. It is reasonable to assume that these vehicles all stolen and disguised in California were transported overland to Houston in order to avoid the aggressive West Coast Customs detection.

Vehicles stolen in the United States and transported into the Republic of Mexico and Central America present a persistent and continuing problem.

Once the vehicle has left the jurisdiction of the United States, its return from a foreign country is next to impossible. Therefore, the deterrent is to prevent its illegal export.

It is the responsibility of the United States Government to protect the property of our citizens and to prevent its illegal introduction into international commerce.

In 1978, the Department of Commerce, Bureau of Census, proposed rule making to amend the Foreign Trade Statistics Regulations to provide that for a period of six months only the vehicle identification numbers must be shown covering the exportation of used vehicles, and that carriers submit such shippers export declaration to Customs at least 48 hours prior to exportation. This temporary requirement was allowed to terminate at the end of the six month period.

H.R. 1744 requires that both the vehicle and the document describing the vehicle, including the vehicle identification number, be presented to the appropriate Customs officer before lading or export.

Illegal exports are susceptible to three primary methods of operation:

(1) Steal the vehicle, export it under its true identity, convert it to criminal profit; (2) Steal the vehicle, change its identity, export it, convert it to criminal profit; and (3) Purchase the vehicle, finance a maximum balance, insure it, export it, when it arrives at its destination either retain it for personal use, in the case of a non-na-

tional or sell it, then fraudulently report it stolen from the U.S. for the purpose of defrauding an insurer.

H.R. 1744 will provide an effective deterrent in the first method of operation, assuming the vehicle is promptly and accurately reported stolen and that the Customs official checks proper theft indices in a timely manner.

In the latter two instances involving the changed identity and the fraud, H.R. 1744 as written presents little deterrence.

Therefore, Mr. Chairman, in our written paper we have suggested additional language for consideration which would require the Secretary to specifically prescribe regulations requiring:

(1) Customs officers to check the vehicles identification numbers against records of stolen and converted property maintained by the federal government or other organizations; and (2) And, to provide for the retention and interchange of export information with law enforcement agencies and organizations engaged in theft prevention activities.

Thank you for permitting me to present my views on this most important bill. I would be pleased to attempt to answer any questions you may have.

STATEMENT

Mr. Chairman and members of the Subcommittee, my name is Paul W. Gilliland, President of the National Automobile Theft Bureau. I am appearing before you today to testify in support of H.R. 1744, An Act to Amend the Tariff Act of 1930 to Prevent the Exportation or Importation of Certain Vehicles.

NATIONAL AUTOMOBILE THEFT BUREAU

The National Automobile Theft Bureau is a crime prevention organization which assists law enforcement and other governmental authorities in investigation, location, and prevention of vehicle theft, as well as thefts of other types of uniquely identifiable personal property, such as off-road construction and agricultural equipment and boats and vessels. The NATB is supported by over 570 property-casualty insurance companies. I would direct the Subcommittee's attention to the fact that the NATB assists law enforcement in investigations and locations of off-road machines and boats and vessles, as well as automobile and trucks.

As President of NATB, I have previously appeared before House subcommittees and testified in support of the Motor Vehicle Theft Prevention Act, later known as the Motor Vehicle Theft Law Enforcement Act. The NATB has consistently supported this legislation and has worked actively with other interested groups who have supported this important anti-theft legislation.

THE "EXPORT PROBLEM"

The recent years, the value of recovered stolen vehicles represents approximately 55 percent of the value of these vehicles at the time of theft. Recovery statistics for off-road equipment and boats and vessels are even worse. Part of the reason for this is theft of vehicles for their component parts, that is, chop-shop activity. However, this is only part of the reason for the low recovery rate. Part of the low recovery rate can be directly attributed to the practice of stealing vehicles in the United States and then exporting them elsewhere in the world.

The exact volume of this illegal traffic is unknown. Estimates range from 25,000 upwards to 200,000 vehicles per year. These are only estimates; under existent practices, there is no way of specifying the exact volume of this traffic. The reason is that no person or agency, at present, keeps records which identify exported property.

Under present conditions, vehicles exported from this country are listed in a shipper's export declaration or the ship's manifest, if they are listed at all. There is no existent requirement that idenfifying numbers be included or listed. Where vehicle identification number is listed. In addition, transposition or other errors are common. Exporters are not familiar with vehicle identification number structure and composition; they have no legal obligation that would cause them to be concerned with full and accurate vehicle description techniques. In other words, under present conditions, vehicles are not identified or are not adequately identified in export documents.

Under present conditions, there is no requirement that the export declaration be filed with Customs prior to shipment. Instead, the filing can occur up to 72 hours after shipment. This is really a moot point, considering the problem of obtaining accurate vehicle identification number listings.

Another aspect of the problem is the use of containerized shipment. Vehicles awaiting loading can be inspected. However, when vehicles are placed in containers prior to loading, there is no reliable way of inspecting the vehicle to determine its true vehicle identification number. Containers can be loaded virtually anywhere in the country and then delivered to a port for loading. Syndicated professional thieves and defrauders know that sealed containers are not challenged by Customs. They take full advantage of this fact and frequently use the medium of the prepackaged container. Declarations accompanying these shipments often contain fictitious names, addresses, and descriptions of the contents of the container. There is every indication that international criminal syndicates are better prepared and equipped to engage in the exportation or importation of stolen vehicles than the various governmental authorities are prepared and equipped to detect and deal with this type of crime.

I think that some examples will provide this Subcommittee with insights into the nature of the export problem. In 1980, Customs agents at Port Newark, New Jersey, became suspicious of a number of automobiles awaiting exportation to Kuwait. Customs agents contacted NATB and requested assistance in identifying the vehicles. During the course of the investigation, numerous discrepancies were discovered in the vehicle identification characteristics. Eventually, the investigation was expanded to include the Federal Bureau of Investigation, with the result that over 100 stolen vehicles awaiting exportation were located and recovered on one dock alone.

In another example, 52 stolen vehicles destined for Haiti were located at the Port of Miami, between January and April 1980. The vehicles involved were determined to be stolen from Florida, New York, and Massachusetts.

In yet another example, during the months of March and April, 1983, approximately 70 vehicles stolen in the United States have been located in the Dominican Republic. Five of the vehicles were previously registered in New York State, using counterfeit titles purporting to be from Virginia and New Hampshire.

The fact that some stolen vehicles are detected prior to their exportation obviously does not mean that the existing situation is adequate to prevent the exportation of stolen vehicles. Instead, I view this as offering the potential of a very efficient deterrent if a systematic program is implemented by U.S. Customs.

ILLEGAL SCHEMES/TECHNIQUES

Several schemes or methods of operation are used in exporting stolen vehicles from the United States. The simplest technique is the transportation of a stolen vehicle under its own power across an international border. Since vehicles are not checked leaving the country, it is easy to effectively transport a stolen vehicle into either Mexico or Canada.

Another technique is to simply ship a stolen vehicle, most commonly by sea, while doing nothing to disguise the identity of the vehicle itself. It must be remembered that the vehicle or its full or partial vehicle identification number may not even be listed in a declaration or manifest. In other words, the vehicle identification number of a stolen vehicle could be listed in a shipper's export declaration because of the knowledge that such numbers are seldom checked through the National Crime Information Center or NATB's North American Theft Information System (NATIS), since Customs officers may not even receive documents until after the ship either has been loaded or has sailed. In a slight variation of this scheme, characters in the VIN could be transposed in the shipper's export declaration, thus avoiding the possibility of detection in the situation where a VIN is checked.

The next technique is that of changing the vehicle identification number on the vehicle and using the changed vehicle identification number for purposes of exporting the vehicle.

Another type of scheme is in reality a type of insurance fraud. Under this scheme, a vehicle will be purchased and a loan will be obtained in the maximum available amount. The vehicle is then taken to an exporter and shipped overseas. Once the vehicle arrives in a foreign country, it can either be retained for use in that country or sold for fair market value. In any event, once the vehicle arrives at its ultimate destination, it is fraudulently reported as stolen in the United States. The insurance company insuring the vehicle against theft will then pay off the loan, together with any balance due to the owner. The several methods of operation are reflected in a Group Exhibit entitled "Stolen Vehicles: The Export-Import Problem," which is annexed hereto.

The bottom line for a vehicle owner is that after his stolen or converted vehicle reaches a foreign country and is sold in that country, there is no reliable way for the owner to recover his vehicle.

Recommended actions.—Identification and inspection; record checking; and record creation, retention, and access.

The major initial action that the United States can take to combat the exportation of stolen vehicles is to provide that vehicles must be fully and accurately described in export documents and that the vehicle, the export document, and reliable documentation describing the vehicle, such as title or registration, be submitted to U.S. Customs prior to lading or export. It cannot be overemphasized that all other action depends on this procedure. There simply cannot be any effective program of export control without vehicle identification and inspection or verification by Customs.

In addition to the submission of the vehicle and a document describing the vehicles to Customs prior to either lading or export, *an effective procedure should provide for the checking of exported vehicle identity against both the National Crime Information Center (NCIC) and NATB's NATIS files.* This step is obviously necessary in order to determine if an exported vehicle is on file as an outstanding theft. In addition, there must be a capability of retaining exported vehicle identity in a computerized file for an appropriate period of time after export. This type of procedure is necessary in order to detect stolen vehicles not immediately entered into the respective data bases, as well as to detect fraudulent thefts in cases where the vehicle is reported stolen after export. *This procedure is recommended by the National Automobile Theft Bureau.* Consistent with this recommendation, NATB is not only willing to commit its resources and data processing capabilities to the implementation of this type of program, but is also committed to the full and complete support of this procedure. A draft of statutory language implementing this recommendation is attached as Exhibit 1.

It is absolutely essential if and when H.R. 1744, or a similar measure, becomes law that the identification numbers of vehicles and equipment be either recorded or verified by Customs officials. The point here is that either the recording of the numbers themselves or the verification of numbers must be conducted by responsible officials in order to prevent inadvertent or intentional errors. Once the numbers are recorded, appropriate cross-checking and retention of the information must be initiated.

The identities of exported vehicles must be checked against both the NCIC as well as the NATIS files. The NATB maintains insurance theft files for property-casualty insurers writing in excess of 95 percent of all motor vehicle insurance in the United States. The NATB is ready to cooperate fully with U.S. Customs in the implementation of effective anti-theft efforts in the export area. This includes checking identification of exported vehicles for any record in NATIS. In addition, NATB is ready to index the identification of exported vehicles for an appropriate period of time. This procedure is essential to detect the exportation of stolen vehicles where there has been a delayed report or entry of the identifying information concerning the vehicle. The procedure also provides a check against the types of fraudulent schemes involving false claims of theft. Record checking and record retention are necessary steps to effectively implement H.R. 1744.

Effective coordination of efforts by law enforcement at the local, state, and federal levels, as well as NATB assistance to law enforcement, requires that *records and information concerning exported vehicles must be readily accessible.* Currently, this type of information is not universally readily accessible or available, and effective investigative efforts are thwarted.

It is the recommendation of NATB that appropriate access to records be provided either in the legislation itself or in the implementing regulations issued by the Secretary of the Treasury. Possible statutory language implementing this recommendation is attached as Exhibit 1.

PROVISIONS OF H.R. 1744

H.R. 1744, if enacted, will accomplish the major initial actions of vehicle identification and inspection, since it provides that a person attempting to export a used self-propelled vehicle shall present to the appropriate Customs officer both the vehicle and a document describing such a vehicle, which includes the vehicle identification number before lading, if the vehicle is to be transported by vessel or aircraft, or before export, if the vehicle is to be transported by rail, highway, or under its own power. In addition, H.R. 1744 provides a civil penalty in an amount not exceeding $10,000 for each violation of the unlawful importation or exportation provisons proposed for incorporation as Section 626 of the Tariff Act of 1930. These provisions relate to knowingly importing, exporting, or attempting to import or export either a stolen self-propelled vehicle, vessel, aircraft, or part of any self-propelled vehicle or

part of a self-propelled vehicle from which the idenfificaiotn number has been removed, obliterated, tampered with, or altered. The legislation also provides that any such violation shall make the vehicle subject to seizure and forfeiture. These are all good provisions, and *H.R. 1744 is endorsed without reservation by the National Automobile Theft Bureau.* These provisions will help greatly; they are significant. There is, however, more that can be done to effectively address the illegal exportation of stolen vehicles and related criminal acts.

OTHER PROBLEMS: SHIPMENTS TO PUERTO RICO AND THE "IMPORT PROBLEM"

Some problems which merit the special attention of this Subcommittee are not fully addressed by H.R. 1744. Some of these situations are probably susceptible to regulatory measures promulgated by the Secretary of the Treasury; others may require legislation.

One situation is that of shipments of vehicles and equipment to Puerto Rico. Vehicles and equipment destined for Puerto Rico do not pass through U.S. Customs prior to shipment from the continental United States, specifically Florida ports. The end result is that stolen vehicles are being introduced into Puerto Rico relatively free from any risk of detection. Once in Puerto Rico, these vehicles can be directed to other locations in the Caribbean or Central or South America. It should also be recognized that even if these vehicles are detected in Puerto Rico, the costs of recovery are significantly greater than they would be if location occurred prior to shipment to Puerto Rico.

Vehicles stolen in other countries can be easily imported into the country. One problem with imports is that there is no one data processing system that identifying numbers from such vehicles can be checked against. The nature of the import problem is even more uncertain than that of exports. Most of the focus on imports has been largely concerned with the issues of emissions control and safety equipment standards. There has been little, if any, concern over the introduction of stolen vehicles into this country.

As previously indicated, there is even less chance of detection where a vehicle stolen abroad is imported into this country. these vehicles are not entered into the National Crime Information Center, so there is relatively little chance of detection.

There is no direct and immediate impact of H.R. 1744 on the problem of imported vehicles. The most important measure that can be taken as a check against the importation of stolen vehicles into this country is *the development of a centralized listing of all such imported vehicles. This list can be used for periodic checking with law enforcement and/or government officials in other countries.* Using this procesa, import violations can be detected. Once detected, import violations would be subject to the civil penalties already provided under H.R. 1744 or to appropriate criminal sanctions. Suggested language concerning this recommendation can be found in Exhibit 1.

Once again, NATB is ready to assist in any way possible in order to develop and support this type of program.

CRIMINAL PENALTIES FOR EXPORT/IMPORT OFFENSES

In addition to the proposed amendment to the Tariff Act of 1930, Title III of the Motor Vehicle Theft Law Enforcement Act of 1983, introduced in this Congress as H.R. 2285, includes under Title III importation and exportation measures, a proposed amendment to Chapter 27 of Title 18 United States Code. Specifically, it is proposed to amend the code by the addition of a new Section 553. This section would make it a federal offense punishable by a fine not to exceed $10,000 or imprisonment for not more than five years, or both, to import, export, or attempt to import or export any vehicle, etc., knowing the same to have been stolen, or knowing that its identification number has been removed, obliterated, tampered with, or altered. It is suggested that this type of specific criminal offense be ultimately considered in order to complement the civil penalty provisions provided in H.R. 1744.

There is one issue relative to the civil penalties provision that I would direct to the attention of the Subcommittee. This is the use of the word "stolen" in the proposed Section 626(a)(1)(A). Unless a specific definition is used, the word "stolen" could result in non-applicability of Section 626 in cases involving insurance fraud or the conversion of rental cars and trucks.

Where an insured falsely claims the theft of a vehicle owned by the insured, the vehicle is not in fact stolen. In the situation of rental cars and trucks, the failure to return the vehicle in accordance with the rental contract is normally not considered to be a theft. Instead, this failure to return constitutes a conversion. It is submitted that appropriate consideration be given to this issue. The proposed Section

626(a)(1)(A) should be reviewed to porvide for its application to vehicles, etc., *reported* to be stolen and to "conve: ed" vehicles.

It is also submitted that the Racketeer Influenced and Corrupt Organizations statute (Title 18 United States Code, Section 1961 et seq.) be amended to provide that Sections 2312 and 2313 of Title 18 United States Code, relating to interstate transportation of stolen motor vehicles, be included as predicate offenses under Section 1961(1) of Title 18 United States Code. The same recommendation applies to the inclusion under RICO as a predicate offense of any specific offenses relating to exportation or importation, such as the proposed Section 553 of Title 18 United States Code. This action would permit the effective application of both civil and criminal RICO remedies to criminal enterprises engaging in either illegal exportation or importation of stolen motor vehicles. This action would not necessarily be taken in conjunction with H.R. 1744.

Finally, I would note that large-scale rings can illegally export hundreds of stolen vehicles. Each individual vehicle can range in value from $15,000 to upwards of $150,000 in some cases. Accordingly, it is submitted that the penalty provided for a violation of Section 626(a) (not in excess of $10,000 for each violation) may be out of proportion to the value of the property involved. A greater civil penalty amount seems indicated.

CONTAINERIZED SHIPMENTS

I have indicated earlier that one continuing problem in the inspection programs relating to the exportation of vehicles is the lack of access to sealed shipping containers. It is submitted that periodic inspection programs conducted by customs officers would be an effective response to this problem as would random inspections. Appropriate consideration should be given to establishing a procedure for such inspections. The necessity for legislative or regulatory measures to implement these inspections would appropriately be directed to the Customs Service.

CONCLUSION

As President of the NATB, I would like to thank the Subcommittee for the opportunity of presenting the thoughts and recommendations of the NATB relative to the important issue of controlling the illegal exportation or importation of stolen motor vehicles and off-road equipment. The NATB supports H.R. 1744. If enacted in its present form, it would represent a good beginning. There is, however, much more that should be done to control the exportation and importation of stolen vehicles.

PROPOSAL - CHECKING VEHICLE IDENTITY AGAINST EXISTING THEFT RECORDS

In addition to the promulgation of regulations as provided in section 626(b), the Secretary shall also prescribe by regulations procedures for customs officers to check vehicle identification numbers or other identifying numbers of motor vehicles, off-highway equipment, vessels, or aircraft against records of stolen and converted vehicles maintained by the federal government or by any other organization designated by the Secretary.

PROPOSAL - INFORMATION EXCHANGES

Customs officers shall cooperate and exchange information concerning motor vehicles, off-highway mobile equipment, vessels, or aircraft, either prior to export or after either exportation or importation, with local, state, or federal law enforcement and governmental authorities, as well as organizations engaged in theft prevention activities, as designated by the Secretary.

PROPOSAL - IMPORTED VEHICLE RECORDS

Customs officers are authorized to maintain for periods of time as shall be prescribed by the Secretary a centralized listing of used motor vehicles, off highway equipment, vessels, and aircraft imported into the United States.

Exhibit 1

STOLEN VEHICLES

THE EXPORT-IMPORT PROBLEM

Exhibits offered
by
PAUL W. GILLILAND
PRESIDENT
NATIONAL AUTOMOBILE
THEFT BUREAU
Before the
House Subcommittee on Trade
Washington, D.C.
May, 1983

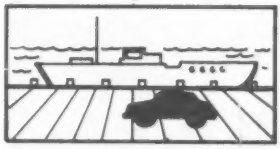
Many Vehicles Exported From the U.S. Each Year

No one knows how many stolen vehicles are exported out of the United States each year since there are inadequate controls over this activity. To ship a stolen vehicle out of the country, a criminal need only fill out a shipper's export declaration. This declaration loosely identifies the item shipped and gives its approximate value, weight and destination. A shipper has up to 72 hours after the vessel has sailed to report to U.S. Customs that the vehicle has been exported. Customs, at present, does not have the necessary tools to control stolen vehicles leaving the country.

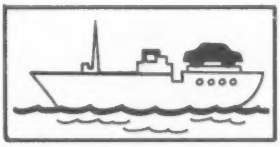
Vehicle Exported With Changed Identification

VEHICLE STOLEN

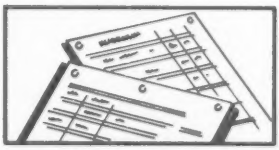
IDENTITY OF STOLEN VEHICLE CHANGED



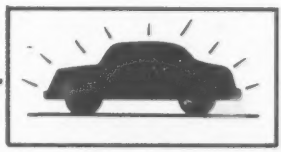
VEHICLE TRANSPORTED TO DOCK LOCATION. THIEF CONTACTS EXPORTER, PAYS FEE AND HAS VEHICLE SHIPPED. NO VERIFICATION NEEDED.



STOLEN VEHICLE EXPORTED

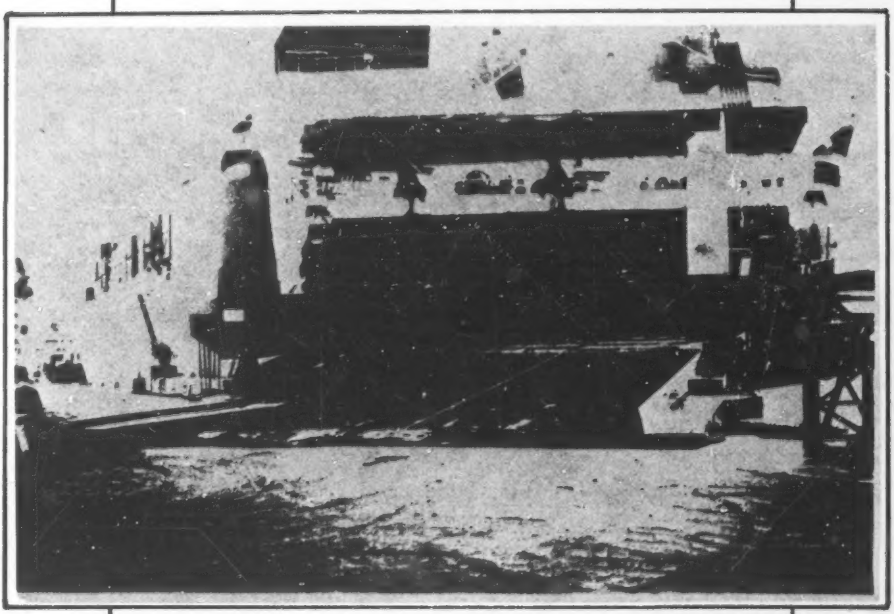


FALSE IDENTIFICATION USED TO INITIATE NEW OWNERSHIP DOCUMENTS IN TARGET COUNTRY.

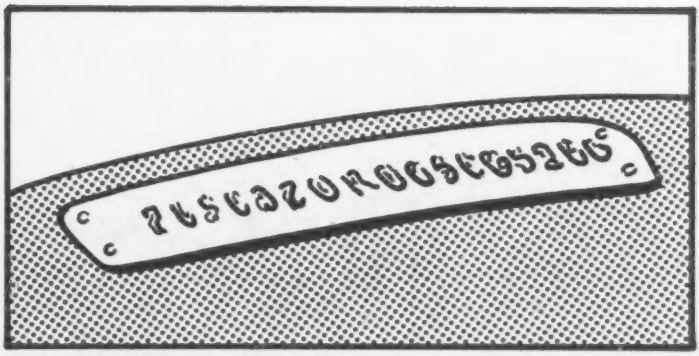


STOLEN VEHICLE SOLD

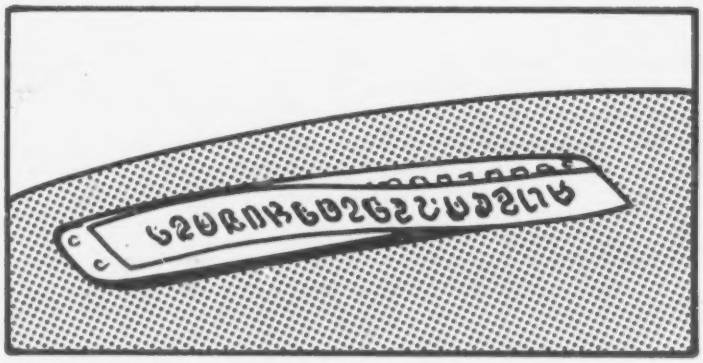
Many vehicles are crated or placed in containers for export. The shipper does not have to provide proof of ownership or furnish a vehicle identification number . . .



. . . Other vehicles are directly driven on board vessels for shipping. Exporters have up to 72 hours after the vessel has sailed to report to U S. Customs that the vehicle has been exported.

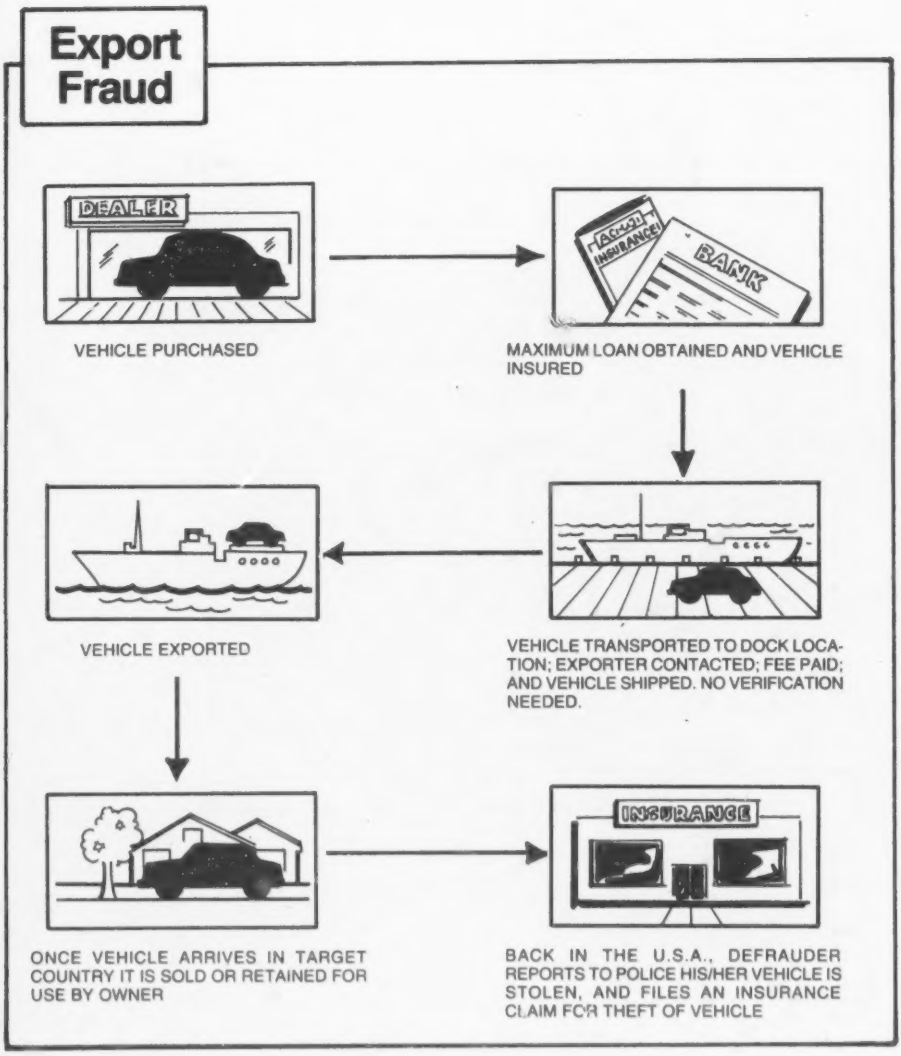


In some cases vehicle identification number plate removed and transferred to stolen vehicle.



In other cases VIN is hand stamped and placed over ORIGINAL VIN.

One vehicle identification number can be used on one Shipper's Export Declaration. The thief then reproduces 4 or 5 copies of the original export declaration and uses the bogus copies to ship the stolen vehicles.


Export Fraud
DEALER
VEHICLE PURCHASED
AUTO INSURANCE
BANK
MAXIMUM LOAN OBTAINED AND VEHICLE INSURED
VEHICLE TRANSPORTED TO DOCK LOCATION; EXPORTER CONTACTED; FEE PAID; AND VEHICLE SHIPPED. NO VERIFICATION NEEDED.
VEHICLE EXPORTED
ONCE VEHICLE ARRIVES IN TARGET COUNTRY IT IS SOLD OR RETAINED FOR USE BY OWNER
INSURANCE
BACK IN THE U.S.A., DEFRAUDER REPORTS TO POLICE HIS/HER VEHICLE IS STOLEN, AND FILES AN INSURANCE CLAIM FOR THEFT OF VEHICLE

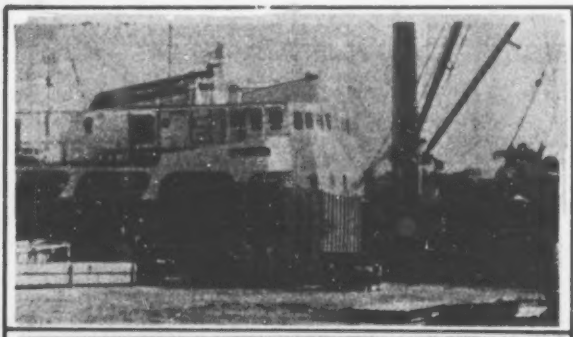
- WITHOUT SOME AGENCY IDENTIFYING VEHICLE AT EXPORT DOCK LOCATION, THERE IS NO WAY TO MATCH POLICE REPORT OR INSURANCE THEFT REPORT.

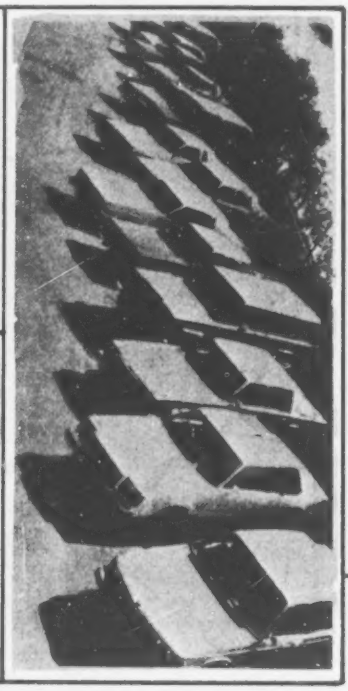
ONE HUNDRED STOLEN VEHICLES LOCATED ON JERSEY DOCKS

PORT NEWARK, NJ—Several years ago, U.S. Customs agents became suspicious of a number of automobiles awaiting exportation to Kuwait. Customs agents contacted NATB and requested assistance in identifying the vehicles. NATB agents accompanied Customs agents on an initial investigation. As a result of the investigation they discovered numerous discrepancies in the vehicle identification characteristics.

Based on these alterations of the vehicles' identities, the scope of the investigation expanded. The Federal Bureau of Investigation joined with U.S. Customs and NATB in further investigations. Over 100 stolen vehicles were recovered on one dock location.

FIFTY-TWO CARS TICKETED FOR HAITI





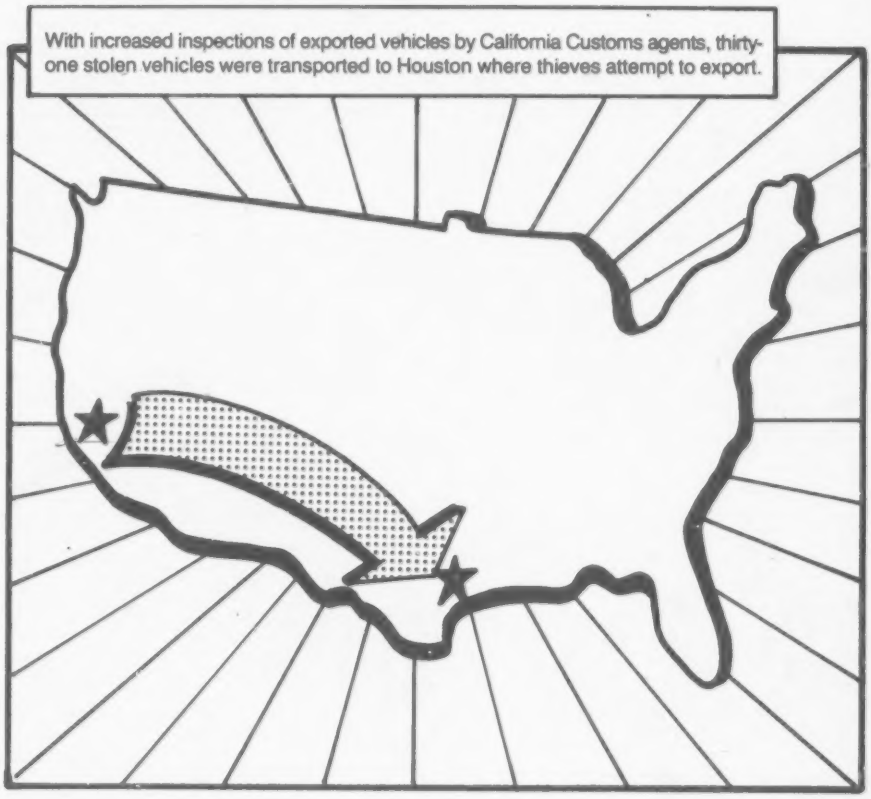
Miami Police suspected that several vehicles stored on Port of Miami docks were stolen. The vehicles were scheduled to be exported to Haiti.

The Miami Police contacted NATB and requested assistance in identifying the suspected stolen vehicles. NATB working with the police, initially identified three stolen vehicles outside a warehouse owned by a shipping line.

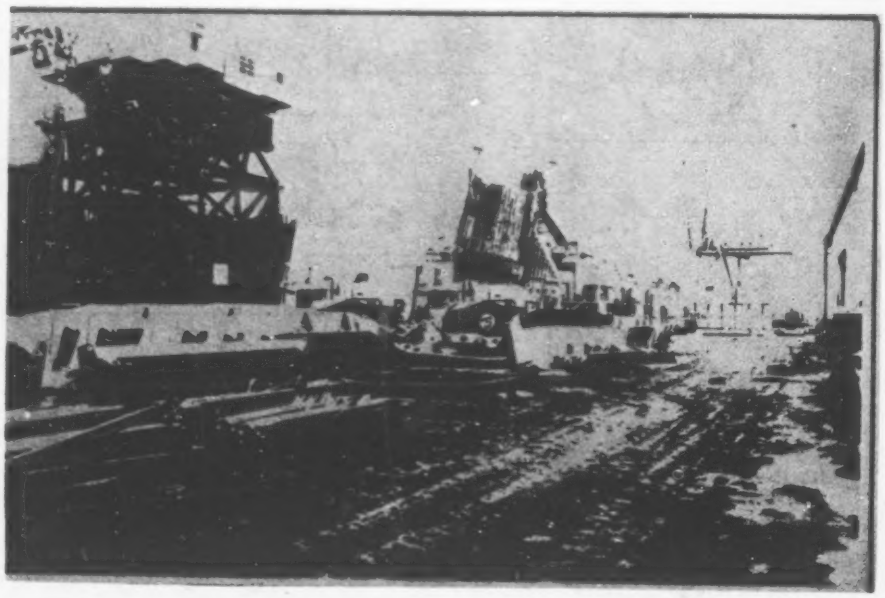
The Miami Police then joined with U.S. Customs and the NATB to inspect the inside of the warehouse. Eleven more stolen vehicles were identified. Next, the police seized the export and dock receipts of the shipping line. As the result of additional investigations, 20 more stolen vehicles were identified. Further investigations of dock receipts resulted in 18 more vehicles being determined as stolen.

A total of 52 vehicles were identified as stolen. The cars were taken from as far as New York and Massachusetts.

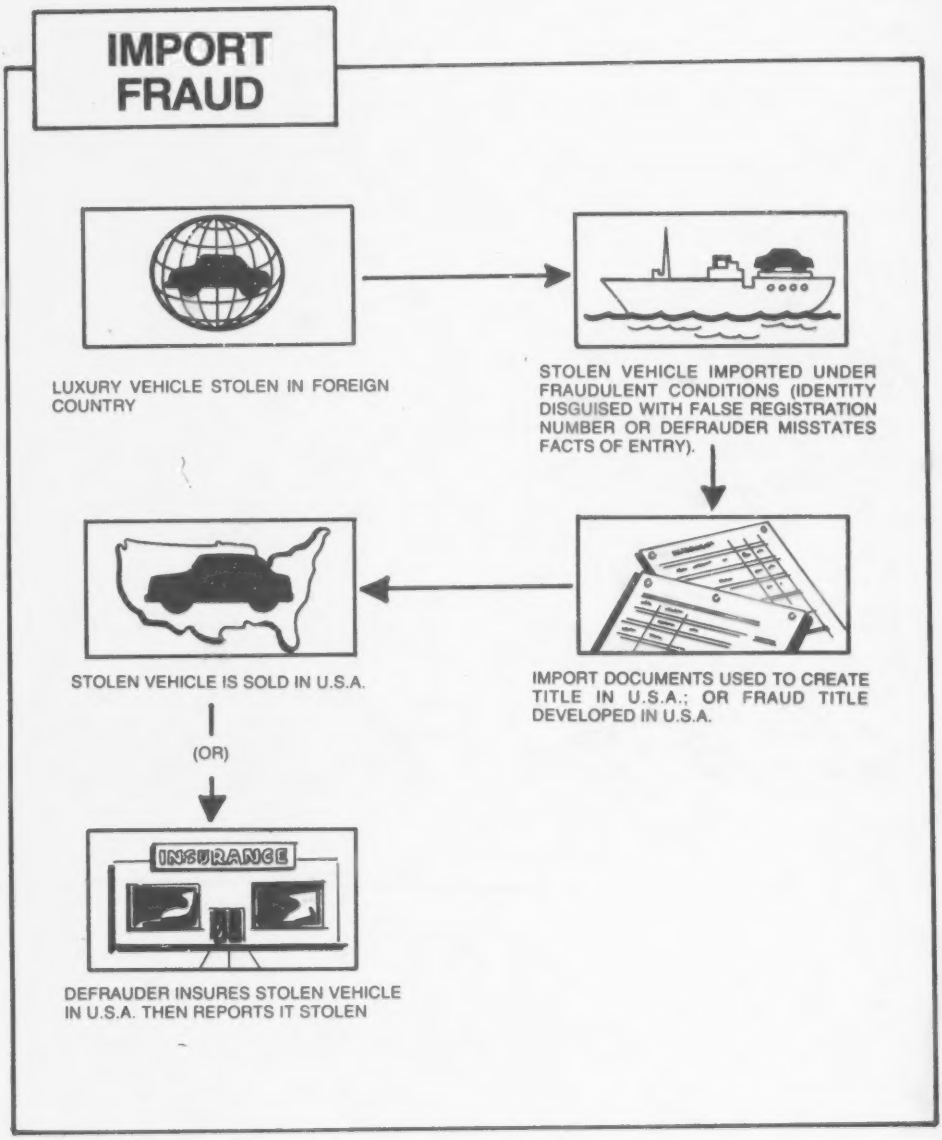
The Houston Case


With increased inspections of exported vehicles by California Customs agents, thirty-one stolen vehicles were transported to Houston where thieves attempt to export.

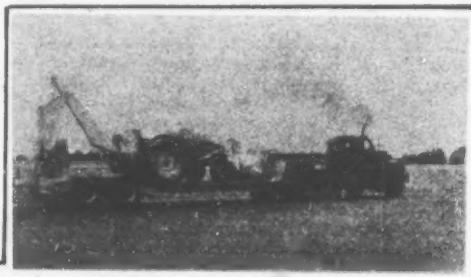
OFF-ROAD MACHINERY



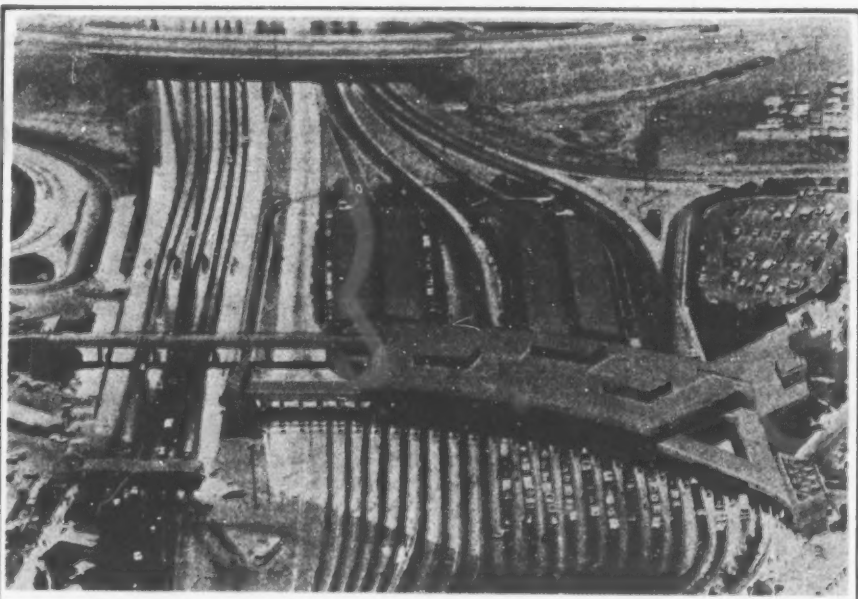
Heavy equipment in holding area ready to be exported out of Charleston. Investigators believe that in some growth nations stolen heavy equipment demands a much higher value than cash.


IMPORT FRAUD
LUXURY VEHICLE STOLEN IN FOREIGN COUNTRY
STOLEN VEHICLE IMPORTED UNDER FRAUDULENT CONDITIONS (IDENTITY DISGUISED WITH FALSE REGISTRATION NUMBER OR DEFRAUDER MISSTATES FACTS OF ENTRY).
IMPORT DOCUMENTS USED TO CREATE TITLE IN U.S.A.; OR FRAUD TITLE DEVELOPED IN U.S.A.
STOLEN VEHICLE IS SOLD IN U.S.A.
(OR)
INSURANCE
DEFRAUDER INSURES STOLEN VEHICLE IN U.S.A. THEN REPORTS IT STOLEN

Some Vehicles Are Simply Driven Across the Border

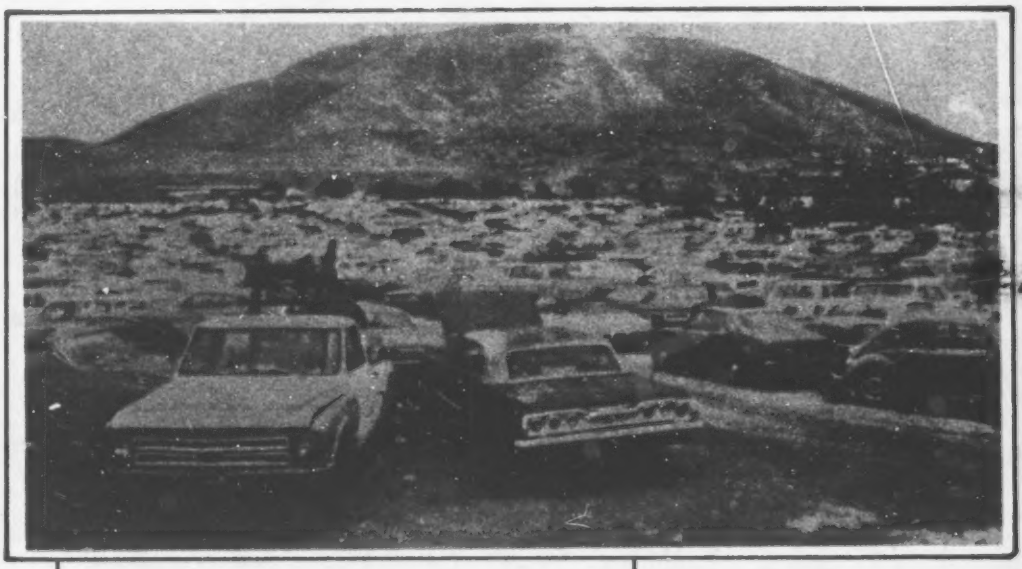


Because of the heavy flow of traffic, many vehicles travel into Mexico without any inspection. As a result, border crossings have become unchecked thoroughfares for the transportation and sale of stolen vehicles.



Approximately 11 million vehicles flow into Mexico each year at this port of entry at San Ysidro on the California/Mexico border.

STOLEN VEHICLES
Difficult to Locate
and
To Recover



Stolen cars, located in Mexico, awaiting return to U.S.

- There is no central registry for vehicles in the Republic of Mexico;
- Vehicle registration information is available only where you have a registration number and the state that issued the registration;
- All registration filings are manual in nature;
- There is no national or international stolen property file in existence such as law enforcement has in the United States; and,
- There is no exchange of stolen vehicle information on an international level between the United States and Mexico.

THE WALL STREET JOURNAL
February 10, 1981

"The problem's very close to getting out of hand right now," says Joseph Tedeschi, a U.S. Customs Service officer who patrols the docks in Newark and Elizabeth, N.J., where authorities last year recovered more than $1 million in stolen cars destined for overseas.

In the U.S., a thief has little trouble exporting a car. "All you have to do is drive to the docks, say you want to ship it, and pay the fee," says Paul Franklin, a customs fraud investigator in San Francisco. "There's no verification, and in the normal course of business, U.S. customs never looks at a car" being exported.

The volume of legal exports is high—in Miami, Fla., 3,000 to 4,000 cars are shipped monthly—and there isn't enough manpower to do more than spot checks, a customs agent says.

California police believe the rings shipped about 200 cars to the Philippines from 1976 through 1978. One of the cars, a Mercedes, was supplied by its owner. He sold it through the ring and then collected the car's $19,000 purchase price from his insurance company, Mr. Miller says.

Law enforcement officials believe the cases they uncover represent only a fraction on the total.

Summary of Present Problems

- VIN listings incomplete/inaccurate
- No matching with vehicle
- No filing required prior to shipping
- Vehicles located in Haiti
- Vehicles located in Dominican Republic

Chairman GIBBONS. Where do most of these vehicles go?

Mr. GILLILAND. All over the world.

Chairman GIBBONS. I was afraid most of them ended up in Canada and Mexico.

Mr. GILLILAND. No, all over the world, sir.

Sealed containers known as containerized freight are often used as a means to export stolen vehicles and parts, and these containers are seldom opened upon presentation by the exporter. A few years ago as an example, over 100 stolen vehicles were intercepted at Port Newark, N.J. destined for export to Kuwait. The value of these vehicles conservatively represented a potential loss to the United States citizens in excess of $288,000.

Chairman GIBBONS. OK. This is a good bill, and we have no opposition to it. Let's do not talk it to death.

Do you have a statement, Mr. Messmer?

STATEMENT OF DONALD D. MESSMER, VICE PRESIDENT, CLAIMS, GOVERNMENT EMPLOYEES INSURANCE CO., ON BEHALF OF THE NATIONAL ASSOCIATION OF INDEPENDENT INSURERS

Mr. MESSMER. I have a very brief statement in support of this bill. I am vice president of claims for GEICO, and GEICO did a regionwide study in a 29-State area comparing recoveries in port cities to regionwide recoveries.

In the following years, the recoveries were: in 1981, 71 percent for the region versus 56 percent for port cities; in 1982, 62 percent for the region and 51 percent for the port cities. In the first quarter of 1983, 65 percent for the region and port cities 28 percent.

I might add that Savannah and Miami are even below that for the first quarter of 1983. Houston is at 35 percent.

I believe that this bill is worthwhile, and we would urge the committee's favorably acting on it.

[The prepared statement follows:]

STATEMENT OF DONALD D. MESSMER, VICE PRESIDENT FOR CLAIMS, GOVERNMENT EMPLOYEES INSURANCE CO. (GEICO) REPRESENTING THE NATIONAL ASSOCIATION OF INDEPENDENT INSURERS

Mr. Chairman, members of the subcommittee, I am pleased to appear before you today on behalf of the National Association of Independent Insurers to voice our strong support for Rep. Stark's bill, H.R. 1744, to curb the export of stolen vehicles by requiring an export declaration before vehicles are exported and by increasing penalties for exporting stolen vehicles.

I am Donald D. Messmer, Vice President for Claims of Government Employees Insurance Company (GEICO), the nation's fifth largest publicly-owned property/casualty insurance company. I am also on the Executive Steering Committee of NAII's Claims Committee and I am Vice Chairman of the National Automobile Theft Bureau Board and Chairman of its Executive Committee.

NAII is the nation's largest property/casualty insurance trade association with more than 500 member companies. Our members write nearly half of the automobile insurance in the country.

NAII and GEICO strongly support H.R. 1744 which amends the Tariff Act of 1930 and would provide the U.S. Customs Service with some of the necessary tools to help control the exportation of stolen vehicles. We are also pleased to see that the Administration has announced its support of the bill.

Each year, vehicle thefts cost the American public over $4 billion. The GEICO Group of Companies alone experienced insured claim costs for vehicle theft of nearly $25 million in 1982.

The recovery rate of stolen vehicles has suffered a severe decline in the last several decades—from a high of 90 percent recovered in 1960 and 78 percent in 1975 to a

drop from 55.5 percent recovered in 1980 to 51.7 percent in 1981, the latest year we have statistics for. This is the lowest recovery rate in history.

No one knows for certain how many stolen vehicles are exported out of the United States each year since there are no adequate controls over the exportation of automobiles. We can only estimate the magnitude of the problem as Mr. Gilliland has explained in his testimony earlier today.

However, we are firmly convinced that, along with the growth of chop shop activities, the illegal exporting of vehicles is contributing significantly to the theft problem in this country. This export theft problem not only affects the insurance industry, but, in many cases, uninsured individuals must sustain the loss.

Ten states accounted for 68.98 percent of all motor vehicle thefts in 1981. The leading states in number of thefts reported were: California, New York, Texas, Michigan, Massachusetts, Illinois, New Jersey, Ohio, Florida and Pennsylvania. It's important to note that all ten states are either seaports or have access to the Great Lakes port facilities.

GEICO conducted a study of recovered theft statistics in one of our regions. The study consisted of comparing total theft recoveries in the following port cities—Charleston, Houston, Jacksonville, Miami, Mobile, New Orleans, Savannah and Tampa—to the combined recovery ratio of the entire region which consisted of 29 states. The results were:

A recovery rate of 71 percent for the entire region in 1981 compared to a 56 percent recovery rate for port cities alone.

A recovery rate of 62 percent for the entire region in 1982 compared to a 51 percent recovery rate for port cities alone.

For the first quarter of 1983, the regional recovery rate was 65 percent compared to a recovery rate of only 28 percent for port cities. By comparison, the first quarter of 1982's recovery rates were 61 percent for the port cities.

In addition to the seaport exportation of vehicles, the Justice Department estimates that 10–20,000 stolen vehicles annually are transported to Mexico.

The failure of other nations to have adequate registration and title laws and our own country's inadequate export controls explains why this activity is so profitable for auto thieves. A number of countries do not recognize a specific document as a certificate of ownership. Criminals can export vehicles to foreign nations and at the same time retain the original certificates of title. The certificates of title for previously exported vehicles are then used in insurance fraud. In these cases, a claimant may falsely state that a vehicle has been stolen. Under existing procedures in State Departments of Motor Vehicles, there is no record that a stolen vehicle has been exported from the United States. In addition, there is no generally available document attesting to the fact that a vehicle title has been surrendered prior to its exportation.

To ship a stolen vehicle out of the country, an individual need only fill out a shipper's export declaration. This declaration inadequately identifies the item shipped without the positive identification available through the use of Vehicle Identification Numbers (VIN's). A shipper even has up to 72 hours after the vessel has sailed to report to U.S. Customs that the vehicle has been exported. Under this system, Customs does not have the necessary tools to control stolen vehicles leaving the country. Once a stolen motor vehicle is out of the country, no paper trail exists, and it becomes almost impossiblems that the vehicle has been exported. Under this system, Customs does not have the necessary tools to control stolen vehicles leaving the country. Once a stolen motor vehicle is out of the country, no paper trail exists, and it becomes almost impossible to trace and recover.

H.R. 1744 is a useful first step in attacking the problem of illegal exportation of stolen vehicles by requiring exporters to record the VIN and to file the Export Declaration with Customs before sailing. A $500 fine would be charged to anyone not complying with these regulations. This may be too low. In addition, anyone who exports or imports a stolen vehicle or one with an altered Federally-mandated VIN could be fined up to $10,000. We believe the potential imprisonment provision in the original Motor Vehicle Theft Law Enforcement Act should also be added. This would give law enforcement needed powers where presently amazingly few exist. Protection of a U.S. citizen's stolen property illegally introduced into international commerce is a responsibility of the U.S. Government.

We have the following recommended improvements for the bill.

Make the list describing cargo of vessels readily available to local, state and government agencies as well as organizations engaged in theft prevention activities.

Permit visual inspection of sealed cargo containers by Customs Agents and other law enforcement agencies.

Increase fines for those who fail to comply with the regulations from $500 to at least $5,000.

Exportation or importation of stolen vehicles or ones with altered VIN's should be punishable by fines up to $10,000 and up to 5 years imprisonment.

Establish VIN checkpoints at the Mexican border.

Grant U.S. Customs agents arrest powers.

Our staffs are prepared to assist in drafting any amendments necessary to accomodate these recommendations.

In conclusion, GEICO and NAII would like to express their appreciation to Congressman Stark for his keen analysis of the obstacles confronting the Motor Vehicle Theft Law Enforcement Act and his introduction of Title III as a separate bill. With H.R. 1744, Congress is able to consider the export situation separately and enact legislation to combat the problem now. Thank you for your time and consideration.

Chairman GIBBONS. All right, fine. Thank you very much.

Next we have the American Pipe Fittings Association in support of Mr. Archer's bill. Both of you support Mr. Archer's bill.

STATEMENT OF PAUL H. ENGLE, JR., EXECUTIVE DIRECTOR, AMERICAN PIPE FITTINGS ASSOCIATION, ACCOMPANIED BY ROBIN JOHNSON, COUNSEL

Mr. ENGLE. Good afternoon, Mr. Chairman, Mr. Archer. Mr. Johnson, counsel to the American Pipe Fittings Association is with me.

I appreciate the opportunity to testify on behalf of the association in support of H.R. 1986, which was introduced by Congressman Archer on March 9. The American Pipe Fittings Association is a trade association of United States manufacturers of iron and steel pipefittings, pipe couplings, flanges, and pipe hangers and supports. There are over 40 companies in the association which account for a major proportion of the production of these products in the United States.

H.R. 1986 would amend the country of origin marking requirements in section 304 of the Tariff Act of 1930 to assure better compliance with these requirements in the case of pipe and pipefittings. We believe that these amendments are badly needed because of a record of inadequate enforcement on the part of the Customs Service. As a result, importers and foreign producers have been encouraged to engage in a variety of practices which mislead American purchasers as to country of origin.

The purpose of section 304 is to permit the ultimate purchaser in the United States to choose between domestic and foreign-made products or between products of different foreign countries when he makes his purchase decision. In short, the provision is intended to permit the ultimate purchaser to exercise his freedom of choice on an informed basis.

Section 304 requires virtually all imported articles to have the country or origin marked in a conspicuous place as permanently as the nature of the article will permit. Over the years Customs has increasingly ignored that requirement.

Instead, Customs permits minimal marking that is readily removed before the product reaches the ultimate purchaser. Rather than carrying out the policy direction of the Congress, Customs has in effect adopted its own marking policy.

This can be seen from a Customs pamphlet entitled "Marking of Country of Origin on U.S. Imports." Customs distributes this pamphlet to importers and foreign producers.

This is what Customs says on the subject of permanent markings:

> How permanent must the marking be? The article should be marked as indelibly and permanently as the nature of the product will permit. However, any reasonable method of marking that will accomplish the purpose of the law is acceptable. Marking that will not remain on the article during handling or for any other reason except deliberate removal is not a proper marking.

In short, Customs is telling the world that indelible and permanent marking is not required, but is merely preferred and that any method Customs thinks is reasonable will suffice even if the marking is not as indelible and permanent as the nature of the article will permit. It seems plain to us that Customs' practice as described in its pamphlet is inconsistent with the intent of the law.

After all, Congress had a reason for requiring marking that is as permanent as the nature of the article permits. That reason was clearly to assure as much as possible that purchasers would know the origin of the imported products and to discourage removal of the origin markings.

Where imported pipe and flanges are concerned, Customs accepts country of origin markings that are so insubstantial that they are frequently removed or obliterated before reaching the ultimate purchaser. For example, Customs accepts marking by adhesive label, by stenciling and by superficial engraving. Such markings usually disappear during the pickling, the burnishing, the shot blasting, or other cleanup processing which imported pipe and fittings typically undergo before they get to the ultimate purchaser in the United States.

In addition, minimal marking makes it easy for an importer who is so inclined to remove the marking in order to deceive the ultimate purchaser or to deny him the opportunity to make an informed choice. The absence of a marking signifies to the purchaser that the product is American made.

Therefore, the unscrupulous importer-distributor can charge the price premium traditionally accorded American fittings and flanges for reliable performance, quality, and service. This provides a tremendous incentive for importer-distributors to substitute foreign for domestic, particularly where the ultimate purchaser specifies, pays for, and thinks he is getting an American made product.

An example of this kind of practice was reported in the November 15, 1982, issue of the Charleston Gazette in an article by Mark Ward titled "Pipe Fitting Supplier Pleads Guilty to Fraud," and there is a copy attached to our testimony. According to the article the Ray Miller Co. had been charged with defrauding customers by among other things removing country of origin labels of pipes and fittings to make them appear that they were manufactured in the United States.

Our concern is that in most cases the culprit is not caught. For that reason we urge favorable action on H.R. 1986 because it would go a long way in preventing this type of fraudulent practice which is becoming increasingly common.

Our members are frankly dismayed by the Commerce Department's opposition to this bill. The Commerce witness told this subcommittee that enforcement of the marking requirement would be a trade barrier.

Yet Commerce conceded that under the bill the cost of permanent marking would not be significant. Mr. Chairman, the country of origin marking requirement is no more a trade barrier than antidumping duties, countervailing duties, or any other policy instrument designed to prevent unfair trade and to let informed decisions in the marketplace determine the pattern of international trade.

Is the Government really telling the Congress that in order to dismantle trade barriers we should keep the country of origin secret from American purchasers? We hope not.

In that connection it should be noted that article 9 of the GATT expressly permits country of origin marking requirements. In fact, article 9 goes so far as to recognize "the necessity of protecting consumers against fraudulent or misleading indications of origin."

For the most part H.R. 1986 does nothing——

Chairman GIBBONS. I hate to interrupt you, but we only have 5 minutes to get where it usually takes 6 to get. We will be right back.

[Recess.]

Chairman GIBBONS. Go right ahead, sir.

Mr. ENGLE. Thank you, Mr. Chairman, just a brief closing remark.

For the most part H.R. 1986 does nothing more than to give effect to the permanency requirement in the existing country of origin marking statute where pipe and pipefittings are concerned. That is, the bill would close an administratively created loophole which in effect ignores the statutory requirement that the marking be as permanent as the nature of the product permits.

In the case of pipe and pipefittings marking by die stamping, cast-in-mold lettering, or etching would close that loophole. Therefore, the American Pipe Fittings Association strongly supports this bill and urges the subcommittee to act favorably on it.

Thank you.

[An attachment to Mr. Engle's statement follows:]

Pipe fitting supplier pleads guilty to fraud

By Mark Ward,
STAFF WRITER

A representative of a failing New Jersey-based manufacturing firm pleaded guilty in U.S. District Court in Charleston Monday to defrauding scores of companies for nearly 20 years by altering low-quality pipes and fittings to make them appear that they were of higher quality.

The Ray Miller Co., which has branches in South Charleston, Skokie, Ill., Buffalo, N.Y., West Caldwell, N.J., and Decatur, Ga. admitted to 10 counts of mail fraud and wire fraud surrounding the sale of pipes, tubes, and various fittings between 1960 and 1979 for which it faces a possible fine of $10,000.

Federal prosecutors charged that the company defrauded others by:

▲ Removing foreign labels on pipes and nipples to make them appear they were manufactured in the United States.

▲ Marking pipe flanges, couplings and bushings as having low carbon content when in fact they did not.

▲ Removing the letters "WD" from welded and drawn tubing to make it appear as if it were seamless tubing.

Assistant U.S. Attorney Ruth Lynette Ranson said the changes were significant because companies receiving pipes and fittings might use them in processes that would exert more pressure or strain than the lower quality products could withstand.

Ms. Ranson said investigators have learned that the mislabelled equipment was used in the manufacture of chlorine dried bleach, methacrylic acid and fungicides, and that it was probably also used in many other processes that they are not yet aware of.

Among the companies specifically known to have received the mislabelled equipment are:

▲ FMC Corp. in South Charleston, which received flanges.

▲ Union Carbide Corp. in South Charleston, which received couplings.

▲ Artisan Industries Inc. of Waltham, Mass., which received nipples and pipes.

▲ Du Pont in Delaware, which received flanges and couplings.

▲ U.S.A.E.C., The Goodyear Atomic Corp. of Piketon, Ohio, which received unions, tubing and flanges.

▲ TVA Power Storeroom in Gallatin, Tenn., which received tubing.

▲ Allied Nuclear Services in Barnwell, S.C., which received tubing.

▲ Procter & Gamble of Dallas, Tex., which received bushings.

An appendix to the company's plea agreement lists 126 companies that have done business with Ray Miller since 1960 and Ms. Ranson said investigators believe at least 50 percent of them may have received mislabelled products.

She added that no one is certain what the equipment was used for and whether companies that received it are aware that it is mislabelled.

In addition to altering the pipes and fittings, Ray Miller is charged with producing and mailing fraudulent mill test reports and invoices, and accepting fraudulent orders for equipment on the telephone.

Ms. Ranson told U.S. District Judge John T. Copenhaver that the company halted its practice of mislabelling equipment when it learned of an FBI investigation of the practice. The investigation, she said, was initiated after several manufacturers complained of receiving defective merchandise.

A grand jury investigation of the case heard from 28 employees at Ray Miller who, the prosecutor said, admitted their role in the fraud, but said they were only following orders.

Robert Polan, a New Jersey-based vice president of the firm, and Hugh Kesecker, the company's branch manager in Charleston, pleaded guilty to their roles in the deception this summer.

Polan was fined $2,000 and ordered to perform 250 days of public service work and Kesecker was fined $1,000 and ordered to perform 150 days of public service work.

Ms. Ranson told Copenhaver that the company made a profit of 40 percent or more on the mislabelled equipment, but was forced to file for reorganization under Chapter 11 of the U.S. Bankruptcy law after it stopped the practice because it could no longer make money in the business.

Chairman GIBBONS. Thank you, sir.
Mr. Hardy, we will take you next.

STATEMENT OF A. WAYNE HARDY, EXECUTIVE VICE PRESIDENT, MARKETING, COLUMBUS FOUNDRIES, INC., AND MEMBER, INTERNATIONAL TRADE COMMITTEE, CAST METALS FEDERATION

Mr. HARDY. Mr. Chairman, thank you for this opportunity to appear before you today in support of H.R. 1986. I am executive vice president for marketing of Columbus Foundries in Columbus, Ga., and I am a member of the International Trade Committee of the Cast Metals Federation, which represents those foundries producing about 90 percent of the castings tonnage in this country today.

With your permission, sir, I would enter my statement into the record.

Chairman GIBBONS. Yes, sir, please. Just tell us what your problem is.

Mr. HARDY. I can summarize in three or four sentences. We have a division in Columbus which manufactures certain fittings that are used to join pipe in such projects as fire protection equipment, natural gas lines, and distribution, and certain of our customers desire to buy domestic-made products because they are concerned about the quality of certain foreign-produced products and because of the exclusion allowed by the "J" list. There is no way to identify these castings or even trace them in the event of a failure.

The product liability ramifications are pretty enormous so our customers have asked us to do what we could to give them a means of identifying the country of origin, and this bill is a method to do that. We notice that the administration opposed it philosophically because it was a nontariff barrier, but it is in fact no problem to identify those castings.

We identify our castings in Columbus as made in U.S.A., and that was that big heavy casting you had in your hand. We brought it as an example of the ease of doing it.

There is no cost in doing it. You do it to the pattern one time at a few dollars maximum cost and then it is good for the life of the pattern which could be several hundred thousand pieces.

So in summary many of our customers perceive that there is value added to a product by domestic production, and we just urge you to consider favorably this legislation.

[The prepared statement follows:]

STATEMENT OF A. WAYNE HARDY, EXECUTIVE VICE PRESIDENT-MARKETING, COLUMBUS FOUNDRIES, INC., ON BEHALF OF CAST METALS FEDERATION

Mr. Chairman and members of the subcommittee: Thank you for the opportunity to appear before you today in support of HR 1986. My name is Wayne Hardy. I am Executive Vice President—Marketing, of Columbus Foundries in Columbus, Georgia. I am also a member of the International Trade Committee of the Cast Metals Federation, which represents those foundries producing 90 percent of the castings tonnage in this country today.

Columbus Foundries is an international corporation with headquarters in Columbus. We also own and operate plants in Neunkirchen, West Germany, and Radcliffe, England. We provide ductile iron castings to the automotive, truck, heavy equipment, building constructon, water works, and other industries. Our Water Works

Equipment Division, Columbus Standard, produces and sells certain pipe fittings which are influenced by HR 1986.

The cast fittings produced by our Water Works Equipment Division are used to join pipe used in water distribution, fire protection systems, natural gas distribution and other projects requiring pipes and fittings.

Many of our customers have expressed the desire to purchase only castings made in the United States. They wish to do this for several reasons. First, the fittings are used to construct systems which require a great degree of product reliability, such as natural gas distribution and fire protection systems. In these applications, quality assurance and traceability are of the utmost importance because of the tremendous potential loss of life and property should a failure occur. But because of country-of-origin marking exemptions allowed by Schedule "J", neither the country-of-origin nor the manufacturer can be traced.

Additionally, many of our customers would prefer, all things being equal, to buy American made products for patriotic reasons. To the ultimate user, such as the municipality or independent contractor, it is virtualy impossible to be patriotic and ascertain country-of-origin. This is especially true when the importer consciously tries to obscure identification of the country-of-origin.

Other customers simply believe that American made products have value added because they provide jobs and income for U.S. citizens and tax revenue for the United States Government.

Because our company is international in scope, we do not advocate protectionist trade barriers. The requirement to identify iron castings with country-of-origin works no hardship on anyone. The exclusion of iron from the "J" list would not result in a non-tariff trade barrier. It is, in fact, no barrier at all. Cost is not a factor and it is easy to accomplish. We in Columbus currently cast prominent identification on all our castings.

According to the U.S. Department of Commerce, 28 percent of ferrous castings used in the United States were imported in 1982. As far as I know, of all those imported castings, only those iron and iron pipe fittings on the "J" list are excluded from the requirement that the casting be identified with country-of-origin markings.

Passage of H.R. 1986 would allow those Americans who wish to buy American made products—for whatever reason—an opportunity to do so. We support this legislation because we believe it will give the ultimate purchaser all the information he needs to make a conscious decision to buy what he wants and it will protect from being misled into buying what he does not want.

This Congress is now considering other legislation such as H.R. 1010 which would require that American products be used in certain Public Works Projects. In addition, the House Committee on Public Works and Transportation is currently working on Water Resource Development legislation that will include requirements for American made goods. Without H.R. 1986, compliance with this other legislation will require strict certification of source, and continuous investigation for authenticity. If H.R. 1986 is passed, compliance can be assured by simple inspection of the articles by the ultimate consumer.

In summary, I am not here to ask for trade restrictions or non-tariff barriers. We are not against fair trade with other countries of the world. We are, however, here to support programs which will ultimately result in jobs for Americans, tax revenue for America, and a healthier American economy. We are here to give support to those Americans who wish to buy American made products. They have that right. H.R. 1986 will help secure these goals. I ask you, therefore, to consider favorably this legislation. I would be happy to respond to any question you may have.

Chairman GIBBONS. All right. Fine. Mr. Archer.

Mr. ARCHER. Thank you, Mr. Chairman.

Domestically do most of the producers of pipe and fittings in some way permanently etch or stamp on their product anything of any nature like "made in U.S.A." or anything else? In other words, is it common for there to be a permanent type of etching or stamping on the product?

Mr. HARDY. In our industry it is a common practice to identify the company that manufactures the product, and we do that on all of our castings that contains our trademark. Because our customers are asking us to, we are now adding the additional phrase "manufactured in U.S.A."

Mr. ARCHER. But to add that additional "made in U.S.A." or "made in Japan" or made wherever would not involve any significant cost?

Mr. HARDY. No, sir, no significant cost at all. A few dollars for a pattern for a part and then it is good for several hundred thousand pieces so that you would never find the cost in the product.

Mr. ARCHER. So in your opinion then, and I would ask this to both of you, this would not be an unreasonable or expensive type of process to require the foreign manufacturer in regard to their products which are being imported into the United States?

Mr. HARDY. Not at all. There are many requirements for making castings especially those involved in product liabilities.

Mr. ARCHER. Well, I want to complement both of you on your testimony because I think you have clearly outlined the purpose of this bill which is to implement what is really existing law for the most part. We are not talking about a new type of a procedure because this identification as you have outlined in your testimony is already required. All we are doing is requiring that it be done in such a way that it will be available during the course of that product's history in this country.

Mr. ENGLE. Traceability seems to be more and more a growing concern for safety reasons and otherwise, and just to supplement Mr. Hardy, yes, the American standards do require that all pipe fittings be marked as to size and heat treatment and melt and trademark of the manufacturer and so forth. While they do not specifically state country of origin, that is still part of the marking process which we think would be permanent.

Mr. HARDY. We find it no problem to mark and identify on the casting with such details as the date and shift it was poured.

Mr. ARCHER. Well, can you see no reason why American purchasers should not be entitled to know the country of origin for these products when they make the purchase?

Mr. HARDY. To the contrary, sir. Many of our customers are asking us for this information, and I fully support their right to have that information.

Mr. ENGLE. Again, I think that is the purpose of the law as Congress originally enacted it for the purchaser to know.

Mr. ARCHER. Thank you, Mr. Chairman.

Chairman GIBBONS. Mr. Frenzel.

Mr. FRENZEL. Mr. Chairman, thank you.

Your interest is solely so the consumer can know where the pipe was made? Is that why you are here, or is it so you can sell some more pipe?

Mr. ENGLE. You might call it to make the selling fair.

Mr. FRENZEL. Well, I guess the problem is if Japan were to do this to us we would have 10 congressional delegations over there tomorrow screaming that it is a brandnew trade barrier, something that had not been required by law before and was absolutely standing in restraint of trade. That is my problem.

Mr. ENGLE. No, again, I think referring to the fact that already there are several markings required on a pipefitting to identify it, U.S. manufacturers would have——

Mr. FRENZEL. But that is only part of the bill, and that is a different kind of marking. The other part of your bill changes something that has been in effect since 1937.

Mr. ENGLE. I did not say change anything. I think H.R. 1986 will rejuvenate and reinforce the intent of existing law.

Mr. JOHNSON. Mr. Frenzel, I am Robin Johnson.

Mr. FRENZEL. Well, are there not two parts to this bill? Do you not add some items that have not been designated?

Mr. ENGLE. They are including the iron fittings that have been on the "J" list, and I think we are just saying that all pipe fittings should have equal treatment. Most of us do not know how that "J" list came about 50 years ago.

Mr. FRENZEL. We just forgot about those for 45 years. It was a mistake, and you just happened to notice them yesterday.

Mr. ENGLE. No, sir. I think there have been numerous attempts to revise the "J" list. In the iron fittings business, imports increased to over 30 percent of the domestic production now, and once again this could be an effect of perhaps substitution.

You can take a foreign fitting that does not have to have country of origin marking and is exempt from that according to the "J" list and substitute it for an American pipefitting. I think most of the American iron pipefitting manufacturers learned a long time ago to put U.S.A. on their pipefitting.

Mr. FRENZEL. But your bill does not require them to?

Mr. ENGLE. It does not say anything about the American marking. It is country of origin marking.

Mr. FRENZEL. Well, we have a big problem. We go all over the world trying to get people to reduce nontariff barriers to U.S. merchandise, and they try to do like we do have them mark it in purple ink or something that says it is foreign goods. Sometimes we can resist that and sometimes we cannot.

But it clearly is something different and it clearly is something that people have been living with in this country for many years without apparently any danger to the life, health, and safety. I think it will be interpreted by our trading partners as a protectionist measure.

Mr. JOHNSON. Mr. Frenzel, I would like to say a word on that. My name is Robin Johnson. I am counsel to the American Pipe Fitting Association.

The vast majority of the pipefittings are not on the "J" list. They are already required to be marked indelibly and permanently as the nature of the article permits. There is a small percentage, cast or malleable iron pipefittings that are on the "J" list.

The bill would require country of origin marking for the first time on those fittings. We do think that all of the fittings should be treated equally. We do not think it is a trade barrier because the administration has already said there is no significant cost involved in doing this.

I do not see how our trading partners could successfully argue it is a trade barrier if there is no cost involved.

Mr. FRENZEL. It would not be if you required it for Americans, too. That is a distinction you see.

Mr. HARDY. We would not object to that in our company including any kind of markings they want.

Mr. JOHNSON. I may add that this does not—the American purchaser may want to source foreign but he has no idea which foreign country these pipefittings would come from. This would enable him to distinguish between, let's say, pipefittings from Germany or England or pipefittings from Iran or the Soviet Union. He may not want to buy pipefittings from those latter countries for his own reasons.

Mr. FRENZEL. I suspect he would have limited opportunties at those.

Mr. Chairman, I yield the balance of my time.

Chairman GIBBONS. Thank you, gentlemen.

Mr. HARDY. Thank you.

Mr. ENGLE. Thank you, Mr. Chairman.

Chairman GIBBONS. We next come to H.R. 2603, MFN for Hungary for 5 years. First we will have the American Hungarian Federation.

Yes, sir. Have a seat and proceed as you wish.

STATEMENT OF LASZLO PASZTOR, CHAIRMAN, EXECUTIVE BOARD, AMERICAN HUNGARIAN FEDERATION, INC.

Mr. PASZTOR. Mr. Chairman, my name is Laszlo Pasztor. I am the chairman of the executive board of the American Hungarian Federation, Inc. The American Hungarian Federation represents 63 organizations with over 200 different churches, federations, associations, chapters, and branches associated with it.

Mr. Chairman, I appreciate the opportunity to testify before your distinguished committee regarding the bill, H.R. 2603, dealing with the extension of MFN, that is, nondiscriminatory treatment and other trade benefits to the Hungarian People's Republic for a 5-year period.

Preliminarily, I would like to note that the American Hungarian Federation is in agreement and supports the policy of differentiation whereby the United States deals with each captive nation presently under Soviet domination in Eastern Central Europe as a separate entity. Therefore, we have not and do not now oppose the continued yearly extension of the MFN to Hungary so long as (1) the U.S. national interests are served; (2) the people of Hungary benefit from it; and (3) Hungary's policies do not mandate a suspension of the MFN status.

We, however, are concerned and are opposed to the multiyear extension proposed in H.R. 2603. Given the constellation of events in Eastern and Central Euope coupled with the disturbing signals we are receiving relating to the current hardening political events in Hungary. We would strenuously urge that a decision regarding multiyear MFN be postponed for at least a year.

Even if multiyear MFN is to be extended to Hungary despite an indication of hardening of that country's internal policies, we would urge that the time period not exceed by any means 2 years. This way every Congress would have the opportunity to review the Hungarian situation. A 5-year extension is simply far too expansive given the potential for the development of adverse events in the dictatorial East-Central Europe.

In addition, we are particularly concerned that H.R. 2603 neither has an escape clause nor any provision for congressional review of the conditions prevailing in Hungary. We would, therefore, urge that any multiyear extension be accompanied by a yearly review by Congress of Hungary's record.

Subsequently, if it is determined that human rights violations in Hungary or increased Soviet Russian domination justify the suspension of MFN, Congress as well as the President would be granted the power to do so. In this respect, the Helsinki Commission could perhaps be given a role of holding annual hearings and examining the conditions in Hungary with a view toward making appropriate recommendations regarding the MFN.

We would also urge that the criteria used to determine whether to extend MFN to Hungary be expanded from the emmigration criteria contained in the Trade Act to include overall human rights and fundamental freedom considerations. It is precisely because of Hungary's perceived overall favorable record vis-a-vis other East Central European countries that multiyear MFN is now at issue. By virtue of such a determination the same standards should be applied to Hungary regarding its continued enjoyment of preferential trade status.

Finally, we are concerned about H.R. 2770, which we realize is not the subject of this hearing, but which is identical to H.R. 2603 with the exception that it would provide a 5-year extension to both Hungary and the People's Republic of China in one bill. Lumping the two states together is totally inconsistent with the policy of differentiation. Hungary and China should be judged on their respective emmigration policies and on human rights records and not be combined into one package.

In sum, we would urge that a decision on multiyear MFN be postponed for at least a year and that in any event such an extension not exceed 2 years. In addition, Congress should remain involved in a review procedure with the possible assistance from the Helsinki Commission. Finally, the criteria for the MFN status to Hungary should be expanded to include considerations of human rights and fundamental freedoms beyond the right of emmigration.

Thank you, Mr. Chairman.

Chairman GIBBONS. Thank you, sir. I do not see anything in either one of these bills that would prevent Congress from taking up repeal or modification of this in the 5-year period nor are we trying to limit the President's authority under these bills.

Mr. PASZTOR. The President's alternative is discussed in the bill, but there is no provision for a congressional review as far as I understand the bill.

Chairman GIBBONS. There is no provision that would stop Congressmen from reviewing it. We review a lot of things up here that we are not required to review.

In fact, we are not required to take up any of these bills, and we are taking up 50 of them. I think this shows our intention to try to exercise attention to the matter.

I thank you for your testimony, sir.

Mr. PASZTOR. Thank you very much, Mr. Chairman.

Chairman GIBBONS. The next witness is from the Coordinating Committee. I wonder if you could let me go vote. I will be right back. Please sit down and I will be back as soon as I can.

[Recess.]

Chairman GIBBONS. OK. The Coordinating Committee of Hungarian Organizations in North America.

STATEMENT OF ISTVAN B. GEREBEN, EXECUTIVE SECRETARY, COORDINATING COMMITTEE OF HUNGARIAN ORGANIZATIONS IN NORTH AMERICA

Mr. GEREBEN. Mr. Chairman, I am Istvan Gereben. I am executive secretary of the Coordinating Committee of Hungarian Organizations in North America.

We are grateful for the opportunity to express our thoughts in connection with the proposed 5-year review period for the MFN status of the Hungarian People's Republic. I have a written statement for the record, and I ask that it and its attachments be made part of my testimony and included in the record.

Chairman GIBBONS. Yes, sir. It will be in its entirety.

Mr. GEREBEN. The Coordinating Committee of Hungarian Organizations in North America opposes the extension of the review period for the MFN status of the Hungarian People's Republic. Our opposition to the change in section 402 of the Trade Act of 1974 proposed by H.R. 2603 and H.R. 2770 is based on the following arguments.

It effectively eliminates the intent of section 402 to grant trade privileges only to countries with an acceptable human rights record, and by doing so it contradicts the established U.S. policy of linkage. It undermines the efforts of the U.S. delegation to overcome the attempts of the totalitarian participants of the Madrid Conference on Security and Cooperation in Europe aimed at the delusion of human rights considerations of the Helsinki Final Act.

It disregards the principle of reciprocity. Extension of the review period for the MFN status of the Hungarian People's Republic is not warranted on the basis of the types and quality of goods expected to be traded between Hungary and the United States in the foreseeable future.

The proposal neglects the fact that Hungary has the most restrictive emigration laws in Eastern Europe. It does not consider the Hungarian record of family unification cases involving other countries than the United States.

It overlooks recent actions of the Government in Hungary indicating a retrograde movement on human rights. Its timing is wrong. When the use of a stick, or, at the most, benign inaction is warranted, it offers a carrot.

In my written statement I elaborate on all of these points. Proponents of the 5-year review period for Hungary argue that the United States should practice the policy of differentiation toward the countries dominated by the Soviet Union, therefore, Hungary, the "exemplary model" of both Andropov and the West, should receive favored treatment. Without taking exception with the basic premise of such arguments, we would like to point out that by this summer Hungary will be the only East Central European country

having MFN status. This fact alone should be enough differentiation in our policy to provide reward for Hungary's rulers who in the eyes of these bills' proponents deserve such privileged treatment. Our recommendation is that no action on these bills be taken by the House of Representatives this year.

Suggestions for multiyear review period of Hungary's compliance with section 402 of the Trade Act of 1974 should not be considered until the Government in Hungary credibly demonstrates that it permanently revised its emigration laws and the arbitrary ways of their implementation resulting in a positive, equitable and humanitarian approach not only to family unification cases but to emigration in general. In the meantime, the possibility of a role of the Commission on Security and Cooperation in Europe in the yearly review process should be explored.

In 1983 the Government in Hungary deserves no more than maintaining its MFN status with yearly reviews.

Thank you very much, Mr. Chairman.

[The prepared statement follows:]

Statement of the Coordinating Committee of Hungarian Organizations in North America, Presented by Istvan B. Gereben

My name is Istvan B. Gereben. I am the Executive Secretary of the Coordinating Committee of Hungarian Organizations in North America, the consultative body of all major Hungarian organizations in Canada and the United States. It is in this capacity that I am testifying today before this Subcommittee and presenting our views on the bills under consideration by the distinguished members of the Subcommittee on Trade at this time. We are grateful for the opportunity to express our thoughts in connection with the proposed five year review period for the MFN status of the Hungarian People's Republic.

The Coordinating Committee of Hungarian Organizations in North America strongly rejects the attempt of H.R. 2770 to create the perception that the Hungarian People's Republic and the People's Republic of China should be treated similarly and for the purposes of the bill's objective should be evaluated by the use of the same yardstick. If the professed policy of differentiation towards the Communist countries not, the differences in basic geographical, biological, cultural and historical characteristics of the two countries support our objection.

The Coordinating Committee of Hungarian Organizations in North America opposes the extension of the review period for the MFN status of the Hungarian People's Republic. Our opposition to the change in Section 402 of the Trade Act of 1974 proposed by H.R. 2603 and H.R. 2770 is based on the following arguments:

- It effectively eliminates the intent of Section 402 to grant trade privileges only to countries with an acceptable human rights record, and by doing so it contradicts the established U.S. policy of linkage.
- It undermines the efforts of the U.S. delegation to overcome the attempts of the totalitarian participants of the Madrid Conference on Security and Cooperation in Europe aimed at the delusion of human rights considerations of the Helsinki Final Act.
- It disregards the principle of reciprocity.
- Extension of the MFN status of the Hungarian People's Republic is not warranted on the basis of the types and quality of goods expected to be traded between Hungary and the United States in the foreseeable future.
- The proposal neglects the fact that Hungary has the most restrictive emigration laws in Eastern Europe.
- It does not consider the Hungarian record of family unification cases involving other countries than the United States.

- It overlooks recent actions of the Government in Hungary indicating a retrograde movement on human rights.

- Its timing is wrong. When the use of the stick - or at least benign inaction - is warranted, it offers carrot.

Our recommendation is that no action on these bills be taken by the House of Representatives this year. Suggestions for multiyear review period of Hungary's compliance with Section 402 of the Trade Act of 1974 should not be considered until the Government in Hungary credibly demonstrates that it permanently revised its emigration laws and the arbitrary ways of their implementation resulting in a positive, equitable and humanitarian approach not only to family unification cases but to emigration in general.

I would like to briefly elaborate on some of the points of our argument against the proposed extension of review period.

The proposal for the five year review period, if enacted, will effectively eliminate the intent of Section 402 to link human rights behavior of a government and prospective trade benefits granted by the United States to that government. The proposal in fact torpedoes the Jackson Vanik Amendment. We find it ironic that when the U.S. delegation is doing its utmost in Madrid to prevent the erosion of the human rights principles on which the Helsinki Final Act is based, a distinguished group of American congressmen, by the introduction of the bills under consideration today, attack the basic tool of implementation of those principles, the sell established U.S. policy of linkage. These contradicting expressions emanating from Madrid and from Washington add fuel to the apathy and cynicism which characterize not only the people of the Third World but increasingly the people of the Soviet Union and its satellites in regard to U.S. foreign and human rights policy pronouncements. There is no apparent political urgency which would warrant the risk of further deterioration of America's credibility among the peoples of East and Central Europe.

Another basic political consideration guiding our opposition to these bills is their disregard for the principle of "quid pro quo". The proponents of the 5 year review period are uncertain about the short and long term advantages - if they can define any - of their proposal. The question posed to the advocates of the bills: Who benefits by what? - is answered by annoyed generalities. If a definitive promotion of U.S. interests cannot be perceived by the implementation of the proposal for extending the review period for Hungary's MFN status to five year, why should it be enacted into law? It should not!

The duration of MFN status review has no identifiable consequence on trade between the United States and Hungary realistically expected to take place in the foreseeable future. Hungary's economy is faltering. The "Hungarian miracle", praised by Western economists, politicians, journalists, failed. The Central Committee of the Hungarian Socialist Worker's Party met last nonth. The communique published after the meeting reveals the reason for the "miraculous performance" of the Hungarian economy during the mid 1970's:

> "One root of our present difficulties is the fact that in the mid-seventies...accumulation and consumption together exceeded the increase of the national income several years running... Our foreign debts have increased to a greater extent than economic expediency called for."

This statement is an admission of the vital role of Western money in the crea-

tion of the "success" of the Hungarian experiment with the much heralded" pseudo-capitalist" economy. Now, when credits and loans are less available the success fizzles. Hungary needs the prestige of approval by the U.S. House of Representatives to maintain the credit which assures that the dollars fueling the "success" are available. This is why Hungarian officials lobbied the members of the Congressional Delegation visiting Hungary last January for support of legislation to extend the review period of Hungary's MFN status to five years. Should the House of Representatives provide this prestige to the Government in Hungary? We see no good reason that would warrant such action. The U.S. would hardly benefit from any trade concessions. Hungary does not have plans to increase its import from the U.S., to the contrary it announced reduction of imports for the next few years. There is no such vital product of Hungary which the U.S. heavily relies on. What is then the thrust of businessmen and their supporters behind these bills? The answer probably can be found in the Hungarian samizdat KISUGO which in its 1981 summer issue addressed the question: "Why does the West like us". The article states:

> "Hungary is very appealing to Western businessmen, because the East European market lacks consumer goods, offers a cheap working force, no strikes, no competition. But first they must obtain political and moral support from their governments."

Do the proponents of H.R. 2603 and H.R. 2770 attempt to provide that support? If they do are they fully aware of the implications of their action?

Hungary has the most restrictive emigration law in East Europe. A person can apply to emigrate only if over 55 years of age and joining a parent, a spouse or child. What constitutes a more severe violation of Section 402, this law or emigration tax? The question is a haunting one. Because of this law, which emigration of whole families from Hungary is impossible. Family unification cases, which are considered individually by the Hungarian authorities, solved on the basis of granting the privilege of permission rather than exercising the human right to leave. The government in Hungary - unvillingly demonstrating the effectiveness of the yearly review - in anticipation of the introduciton of this bill, solved all presently outstanding family unification cases as far as the United States in concerned. Many cases, however, involving other Western countries which do not have the leverage of Section 402 and its yearly review requirement of trade conditions are still unresolved.

Recent repressive measures against the dissidents, increased harassment of tourists and visitors, the detention of ordinary citizens for uttering anti-soviet or anti-party statements indicate that the authorities in Hungary initiate a retrograde movement on human rights. The confiscation of samizdat literature, duplicating machines and the detention of leading intellectuals just before and right after the visit of Hungary by the Congressional Delegation in last January represent regression for Hungary. The selection of this time for the enactment of H.R. 2603 and H.R. 2770 will send the wrong message to the Government in Hungary and to the Hungarian people by creating the impression that the United States House of Representatives condones these recently increased oppressive measures of Mr. Kadar's totalitarian regime.

Proponents of the five year review period for Hungary argue that the United States should practice the policy of differentiation towards the countries dominated by the Soviet Untion, therefore Hungary, the "examplary model" of both Andropov and the West, should receive favored treatment. Without taking exception with the basic premise of such arguments we would like to point out that by this summer Hungary will be the only East-Central European country having MFN status. This fact alone should be enough "differentiation" in our policy to provide reward for Hungary's rulers who in the eyes of these bills' proponents deserve such privileged treatment.

In 1983, the Government in Hungary deserves no more than maintaining its MFN status with yearly revies.

ATTACHMENTS TO THE

~~TESTIMONY~~
OF
THE COORDINATING COMMITTEE OF HUNGARIAN ORGANIZATIONS IN
NORTH AMERICA

TRANSLATION FROM THE HUNGARIAN

DECREE NO. 4/1970 (III. 3) KORM.
OF THE HUNGARIAN REVOLUTIONARY WORKER-PEASANT GOVERNMENT
ON PASSPORTS *

Emigration and Consular Passports

Sec. 12. (1) A passport for final settlement abroad may be issued to a person who has completed the age of 55 years and wishes to depart for abroad for the purpose of living with his parent, child, or spouse, provided that he does not have any liability for support (Law No. IV of 1952) or for civil or public debts.

(2) The decision of approval by the orphan's authority shall be required for the final departure for abroad of a minor child.

(3) The permission of the Minister of Defense shall be required for the final departure for abroad of a person liable to military service.

(4) The Minister of the Interior may grant an exemption from the restrictions defined in paragraph (1) in well founded cases.

(5) An emigration passport shall be issued to a person who wants to leave the territory of the country permanently and requests his release from the bonds of citizenship.

(6) A consular passport shall be issued to a person who wants to leave the territory of the country permanently, but [who] does not request his release from the bond of citizenship.

* Excerpt from the law

Why does the West like us?

Excerpts from the Hungarian samisdat "Whispering Out" (kisugó; which, ironically stands for the opposite of "whispering in", that is ~~reporting on domestic news to~~ informing the secret police. The article was published in the fall of 1981.

Never before has life been more aimless, shapeless and hopeless in Hungary.

True, the majority of the people have been relieved of a direct threat of physical harrassment. True, cops are only practicing force on the poor and the teenagers; true, there are no conceptual political trials held; in fact, there is an air lacking of real politics. In a sense, this "existing socialism" has opened a wider road towards affluency for a larger crowd. As a matter of fact, this affluency is of a typical bourgeois nature in terms of apparent injustice in distributing wealth as far as consumer goods are concerned. In fields like public health and education, poor conditions are reproduced.

There is good reason to assume that most of our compatriots seem content with the situation which has compromised the people to accept present conditions. Well, this new generation of Hungarians has found comfort in relaxing from the fatal

heritage of our haunting historical past.

What can we call this? Only the future can tell if this process works towards a regeneration or a degeneration of our people. However, we are not in a position to afford obscure answers. Future has become a word of seldom occurance in the vocabulary of Europeans in recent times. We understand that the making of our future has evidently slipped out of our hands. The taking care of our tomorrow now belongs to international businessmen, the military and oil sheiks. We are only restricted to bearing a new human generation for them, and this is it.

We should at least feel discomfort with our children. Well, there is a lot that tells why. We did a great job in forging and denouncing our history. We also contributed in editing schoolbooks so that unpleasant facts would surely be missing. We agreed to be blind and deaf in exchange for our daily bread and quiet survival.

And most of all, we are blamed for having let a clumsy, lazy and ineffective bureaucracy control and govern us by having adjusted us to a situation that tolerates no innovation, independence and creative thinking.

Shame we must feel for the ugly outlook we managed to design for the cities that serve for the restricted purpose of accommodating a daily routine of reproduction. Life has somehow been alienated in these blocks of cement and steel, however we have set creative goals of formulating districts that would

provide for vivid human communication and communal activities.

A long time ago we gave up the idea of working honestly. Then, instead of working hard and well, we elected to pursue the curves of stealing, cheating and delaying deadlines. Literally, we became part of a gang which, according to unwritten social rules, has easily ripped of the country's economy. Instead of participating in the growth of our national income, we felt free to legally go unthreatened and take our share from what we called "the stock that belongs to our people". By this, we kept taking advantage of the shortage in consumer goods that can be extremely well manipulated by the smart, while damaging the poor and leaving them under even worse conditions. We gradually gave up our right to have public control over how the elite takes care of business beyond our reach. We easily abandoned a chance for protest in hope of a deal and break once we showed obedience and self-discipline.

And still there is more reason to feel shamed.

Just simply, because we are responsible for having made our country the land of drunkards.

And we have contributed to creating a mass of a million insane.

And we have succeeded in topping the world list of suicides.

And we have managed to get older before our time. Yes, we are responsible for the untimely wrinkles we have developed. And for turning our loved ones into spiritual cripples. And for the mere fact that our clients, our agents, the caseworkers who deal with us, the people in our office, our neighbors and relatives give us the same blank look as we do.

We did it all. No one else but we can be blamed for the fact that during the last 20 years an estimated 250 thousand Hungarians have waved farewell to our country because they found that the innovative, creative spirit was of no interest here.

We did it all. We have helped to support public education that takes good care of leaving the children of the poor as uneducated as they had been, while wealthier kids can afford to take more sips of the pool of useless knowledge.

As a matter of fact, the state could hardly care less about nurturing independent thinking in its youth. Instead, teachers are busily trying to instruct kids as to the needs and ways of social adjustment, obedience and loyalty to the political lead. This is why the younger generation is gradually antagonized from a normal curiosity of this age group. This is why, as a result, kids hate school, feel no respect for hypocritical teachers, and identify the uselessness of the institution with the waste of time spent on learning.

In short, knowledge and education dramatically become devaluated.

In addition to this, instructors at daycare centers and high schools are almost encouraged to utilize physical force when

it is necessary to do justice. Thus, at an early stage of their lives kids understand the message of the totalitarian system that tolerates no violation in terms of thought and action. This understanding, a tattoo on the young spirit, is so much engraved, that it will be remembered every minute. When these kids become adults, the police state will have no reason to feel threatened.

As a summary, we can only say that we have cause to feel shame. Yet, our protectors are running fast to silence our crys of guilt. Along with the elite of Hungary, opinion leaders of the world are also crediting us with considerable achievement. Some of us who routinely read papers are suspiciously stunned to see so much credit. We are wondering how much crime we must have committed to be discharged so easily and elevated to heaven among the angels? Or, by giving us so much credit, are they simply suggesting that the time has come for us to retire?

We are very embarrassed to be congratulated by respected Western visitors. They praise us for the outstanding achievements in establishing a solid basis for our system, and the relatively unlimited range of freedom we have reached. But the most astonishing thing to see is how our statesmen are reflected in Western papers which would allow no occasion to pass without raising critical views when their political leaders are in question.

Or are we looked at by the world as a reversed tower of Pisa, and only we are aware of how slanted their vision is? We doubt it.

We doubt that our good reputation stems from lack of information. Obviously, representatives of this positive view of Hungary are absolutely aware of the conditions in our country. They only chose to ignore reality. They elected to view us as the best possible practice of existing socialism.

There is no question of how bad conditions are in our neighboring countries under Soviet domain. Apparently, they live far worse than we. It is no secret that a chance for economic consolidation and political tolerance in Hungary was granted as a consolation prize for the fallen heroes of the lost cause in 1956. However, there is still little reason for approving nods, big smiles and enthusiasm regarding the "merriest tent in the camp". Why do we get this over-dramatized positive attention then?

Maybe it is a dramatic decline in the all-round conditions of our neighbors. Economic and political situations in the Soviet satellites have lately deteriorated so much that these countries have literally become unreliable negotiators with the Western states. Inevitably, however, these negotiations are of vital importance for the Western democracies. True, everybody wants to have a share of the world power and no one likes to see big business slipping out of their hands. Sharing power is always a matter of bargaining and fighting a war. Business success is always a combination of smart dealing, cool diplomacy and careful cooperation. And now, this is why an

intermediary country from the Soviet realm is a necessity for both parties. Hungary, the go-between, has been appointed to fulfill the task of wheeling-dealing, while the two political systems are fighting a new cold war.

Detente and cold war are like variations in international communication used for maintaining the delicate balance inside and outside the blocs. Each superpower pursues a way of its own to govern the situation inland. We do it our way, too. We are told that our survival is conditioned by the innumerable, confidential, important and protective measurements and costly considerations made by vague political authorities far beyond our reach. In consequence, these efforts require us to show more obedience, loyalty and economic sacrifice in order to protect our security. We understand that in this divided world situation the threat of a new apocalypse is constantly present and we are haunted by the danger of a massive world explosion.

Well, there are additional facts that help us to understand why Hungary has been cast in the role of the only "acceptable alternative of socialism". In Czechoslovakia, political powers even failed to achieve domestic acceptance. In Poland, open wounds still hurt too much. Underdeveloped Bulgaria is riding far behind both in terms of political and economic practice. So far Rumania has earned even too much credit from Western democracies, despite being a totalitarian, fascist, police state that has only managed to follow an independent lead in foreign politics, favorable to the West. However, due

to its outstanding record of domestic oppression, this country has lost the opportunity for a potential role in international dealings. East Germany is out of the question because of its wealthy neighboring sister state, West Germany. And also, a Prussian way of accurate socialism would hardly be capable of drawing any kind of sympathy from the Western world.

Now, who needs us for this role of the "perfect kid"? And why?

Firstly, for obvious reasons, Western technocrats and social democrats are sympathizing with us because they have set similar standards for state control and central economic planning. However, an ultimate denunciation of centralized administration is a threat from their political counterparts which manipulate the population in the Western democracies against an overwhelming control of the state.

Hungary is very appealing to Western businessmen because the Eastern European market lacks consumer goods, offers a cheap working force, no strikes and no competition. But first they must obtain political and moral support from their governments.

Our country is also indispensable to the communist and socialist parties in the Western countries. For despite occasional differences of opinion, these parties have to maintain a relatively good relationship with Eastern Europe to convince the voters, and Hungary can still represent a good example of the "liberal" socialist practice.

Last, but not least, the majority of the leftist Western intellectuals are clinging to us because, so far, they have been incapable of formulating a potential and competitive political program utilizing the elements of marxism on their own. Trying to make an evenhanded balance of political expectations, philosophies and realities they want to designate us, who are relatively free Hungarians, a nation that has achieved some consolidation, as intermediaries in international communication.

This potential of multiple support provides us with a strong position in the world, and some significant benefits. Nevertheless, Hungary can only utilize this reputation if we understand the value of those political forces that favour the way we are maintaining the image of our democracy, flexibility and outlook. Once we do see their point we should definitely feel more entitled to claim our right to control our politics, and economic planning, that is, in short, to control our present conditions. Following this lead, the outcome is rather questionable. We might achieve an expansion of liberalism or cause the government to show its real face which would not refrain from forcible action. In case of this second alternative, the government would lose inside and outside security, and this loss of stability would unsettle the system like an earthquake. However, this would free the paralyzed public to practice political rights in daylight. This would allow for more of an exchange of political, economic and creative opinions. We do not consider that this temporary turmoil is too high a price in order to gain a more democratic social system.

REUTER

069 Vienna Dec. 23, 1982

DISSIDENTS

Hungarian police have raided the apartment of Laszlo Rajek the son of a former Hungarian foreign minister and confiscated underground literature for a second time in two weeks; dissident sources said today!

They said the raid took place Tuesday.

Rajek's apartment has been open every Tuesday night for nearly two years for the sale of copies of articles rejected by the official media and other documents.

Last week, police raided six houses in Budapest, including Rajek's apartment and confiscated literature and duplicating equipment. The official press carried brief reports on the action.

Last week, police detained four people including Rajek who is an architect. This week there were no arrests and nothing was carried in the Budapest papers.

DAILY WARNS 'INTERNAL OPPONENTS OF SOCIALISM'

AU141250 Budapest NEPSZABADSAG in Hungarian 11 Dec 82 p 7

[Peter Kenyi article: "The Game Is Not Played for Peanuts"]

[Excerpt] It is time to clarify something in connection with the internal opponents of socialism, primarily with regard to their "status."

What I mainly have in mind is this: People who still acknowledge that they are against "power" per se are extremely naive and gullible and they have only ideals, convictions and morality on their side, in contrast to the men of our society, the supporters of the government, who also possess all kinds of means of power and coercion. Let us not acknowledge the moral standing they claim for themselves, alleging that they are engaging in combat only with their ideals, naked and unarmed. Let us not acknowledge it, because it is not true; it is not good faith or malevolence that is decisive, but facts. Whether they like it or not, they have arrayed behind them a vast arsenal and extraordinary power — with its economic, political, military and propaganda apparatus — that is the entire antisocialist and anticommunist potential and reserves of the West.

It has long been the strategy of imperialist centers to support in various ways elements of erosion and disruption, opposition groups and organizations, and trends that propagate the bourgeois political system and bourgeois nationalism within socialism. One might say that this is a natural concomitant of the struggle of the capitalist system against socialism. However, since anticommunist propaganda also urges using means of economic pressure to that end, the application of sanctions, the imposition or termination of embargos and the delivery or non-delivery of foodstuffs, and since it urges that this should be considered, among other things, even at armament talks, and that this should be a criterion of their readiness to discuss arms limitations, then there can ultimately be no question of the internal opposition presenting itself as a moral factor independent of any power and standing above the political struggle.

There are probably differences among them as to who welcomes this support and who does not, among those who regard themselves as dissenters, among those whom this support suits, and those whom it does not, but there are none with regard to the fact that no matter what their intentions are, they in fact prescribe their true status. They are linked to powers whose magnitude is by no means irrelevant, to forces that, to expand their own sphere of power, do not shrink from inflicting serious damage on the peoples concerned.

To make this clear, for once, it must be bluntly declared: The game is not being played for peanuts. And to make it more clear: For the anticommunist instigators no price is too high — for it must be paid by our peoples — to boost the prestige of a handful of dissenters.

Still, what position is being adopted by the dissenters, who are supported by those quarters in this way? Either they reject and object to this support as unsolicited patronage, and protest and struggle against it, and, if they do, they can no longer act as they have been doing; or they are objectively in cahoots with it, and then they should bear the odium of it. Let everyone be aware that the endeavors of the obdurate antipeace groups lend authoritative emphasis to their gestures that are passed off as humanitarian and nationalistic ones. Let us not permit them to play the role of mere propagators of ideals, to put on the affected airs of "champions of truth" remote from any power.

Let us repeat: It is possible to be cast unwittingly and unintentionally in this role through mental blindness or lack of experience. However, as the saying goes, intentions are not voted on. What is decisive is the end result, the effect. This warning can be addressed to several people. Once they have crossed the Rubicon that separates a critical intellectual approach from hostile political activity, let them consider the path they have chosen, what course they are travelling, and where.

DAILY WARNS 'INTERNAL OPPONENTS OF SOCIALISM'

AU141256 Budapest NEPSZABADSAG in Hungarian 11 Dec 82 p 7

[Peter Gnyi article: "The Game Is Not Played for Peanuts"]

[Excerpt] It is time to clarify something in connection with the internal opponents of socialism, particularly with regard to their "status."

What I mainly have in mind is this: People who still acknowledge that they are against "power" per se are extremely naive and gullible and they have only ideals, conviction and morality on their side. In contrast to the men of our society, the supporters of the government, who also possess all kinds of means of power and coercion. Let us not acknowledge the moral standing they claim for themselves, alleging that they are engaging in combat only with their ideals, naked and unarmed. Let us not acknowledge it, because it is not true; it is not good faith or malevolence that is decisive, but facts. Whether they like it or not, they have arrayed behind them a vast arsenal and extraordinary power -- with its economic, political, military and propaganda apparatus -- that is the entire antisocialist and anticommunist potential and reserves of the West.

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Still, what position is being adopted by the dissenters, who are supported by these quarters in this way? Either they reject and object to this support as unsolicited patronage, and protest and struggle against it, and, if they do, they can no longer act as they have been doing; or they are objectively in cahoots with it, and then they should bear the odium of it. Let everyone be aware that the endeavors of the obdurate antipeace groups lend authoritative emphasis to their gestures that are passed off as humanitarian and nationalistic ones. Let us not permit them to play the role of weak propagators of ideals, to put on the affected aim of "champions of truth" remote from any power.

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UNDERGROUND PUBLICATION BESZELO DESCRIBED

AU0911535 Vienna ARBEITER-ZEITUNG in German 9 Dec 82 p 3

[Article by Bela Rasky: "Hungary's Opposition Is Not Silent"]

[Summary] Last summer the third issue of BESZELO, a mimeographed Hungarian underground publication, came out with 150 pages. The first issue had appeared early in December 1981. Every issue gives the names, addresses and telephone numbers of the five publishers: Miklos Haraszti, Janos Kis, Ferenc Koszeg, Balint Nagy and Gyorgy Petri -- all originating from the intellectual opposition that was so typical for Hungary in the early 1970's. Yet their current activities prove that there is a growing tendency among these intellectuals to devote more attention to political, social and economic questions of everyday life under the conditions of Hungarian socialism.

"A topical analysis of the further road of Hungarian society -- 'Ideas About the Immediate Future' by Janos Kis -- in the latest issue of BESZELO is further evidence of this new trend within the opposition, primarily because beyond the analysis itself it also broaches questions of the coming policy, strategy and tasks of the Hungarian dissidents, and puts these questions up for discussion in the 'Second Public.'"

Other reports contained in the same issue deal with the writers congress that was held at the end of 1981, with the Catholic conscientious objectors and with the conditions in the Budapest central prison. There is also an interview with a 25-year-old skilled worker on the situation in Poland after the military putsch. In another interview one of the founders of Hungary's first independent publishing house AB is quoted as saying that this publishing house is one for publishing undesirable works.

"To date all these activities have been carried out relatively unhindered -- apart from some fines. The minbus of the name Laszlo Rajk -- son of the foreign minister who was executed in 1949 following a Stalinist show trial -- whose apartment in Pest serves as central exchange place for any type of underground literature ('samizdat boutique'), the international reputation of writer Miklos Haraszti, as well as the Hungarian Government's fear of losing its reputation of being liberal among Western banking circles in the event of its taking more drastic measures may have contributed to this development. However, the conspicuous extensive shadowing of opposition activists, threats of physical violence such as: 'We'll smash your cheekbones', and the police interventions when Haraszti and Rajk distributed leaflets during the '1982 Peace March' stopover in Budapest and on the occasion of the demonstration of Hungarian oppositionists commemorating the second anniversary of the signing of the Gdansk agreement on 30 August in the center of Budapest, are indications of the growing nervousness of the Hungarian authorities."

BUDAPEST POLICE SEIZE ILLEGAL PRINTING PRESSES

LD142146 Budapest Domestic Service in Hungarian 2100 GMT 14 Dec 82

[Text] The chief Budapest police authority has carried out an investigation into offences against the regulations concerning printing presses during which duplicators possessed in violation of the law and writings prepared without permission were confiscated. Those responsible for duplicating these works were reprimanded in accordance with the provisions of the law and confiscation of the objects seized has been initiated.

THE NEW YORK TIMES, SUNDAY, MAY 1, 1983 7

Five Hungarians Charge Human Rights Violations

Five Hungarians have accused the Budapest Government of repeated violations of the human rights provisions of the 1975 Helsinki accord.

In a report prepared for a meeting in Vienna last month of the coordinating committee of the International Helsinki Federation for Human Rights, the five dissidents said several Hungarian statutes were being used to curb freedom of speech and of the press.

"Making hostile remarks about the Russians or Communists at some public place, a football match, for instance, is sufficient grounds for a prison sentence of two or three years," said Dr. Gyorgy Krasso, one of the five. "There is no constitutional or administrative court to which one can turn for redress."

Dr. Krasso, who has tried in vain for 19 years for permission to visit his brother in Britain, said Hungarians were frequently denied the right to travel abroad. Those denied passports are not given explanations, he said.

Chairman GIBBONS. All right, sir. I was just trying to read your statement as you went along. We appreciate your views. Thank you very much.

Mr. GEREBEN. Thank you very much.

Chairman GIBBONS. The Freedom Federation, if you would come forward, please. You are Anita Bedelis?

STATEMENT OF ANITA BEDELIS, CO-CHAIR, PUBLIC RELATIONS COMMITTEE, FREEDOM FEDERATION

Ms. BEDELIS. Mr. Chairman, my name is Anita Bedelis, cochairman of the Public Relations Committee for the Freedom Federation. I appreciate the opportunity to express the views of the Freedom Federation on the extension of the most-favored-nation status review period for the Hungarian People's Republic.

The Freedom Federation is a new organization comprised of the 20 American ethnic groups shown in the attachment. These ethnic groups have a common bond in that all have found their way to America because of direct or surrogate Soviet Communist aggression against their native countries.

As people who have experienced the loss of freedom first hand, we are uniquely qualified to understand the Soviet threat. Among our activities, the Freedom Federation has chosen to focus on the very important issue of extending the review period for the most-favored-nation trade status to Hungary from 1 year to 5 years, H.R. 2603.

U.S. economic objectives must continue to be compatible with established political and human rights policies toward Eastern European countries. Legislation to extend the most-favored-nation review period passed 1 year would destroy the spirit and purpose of these policies, especially section 402 of the Trade Act of 1974, which serves to link freedom of emigration with the East-West trade privileges.

Suggestions for a multiyear review period should not be considered until the Government in Hungary credibly demonstrates that it has permanently revised its emigration laws. To date, permission to emigrate continues to be granted or denied at the whim of Hungarian officials, and overall Hungarian emigration laws are among the most restrictive in Eastern Europe.

A decree issued by the Hungarian Government states, "A passport of final settlement abroad may be issued to a person who has completed the age of 55 years and wishes to depart for abroad for the purpose of living with his parent, child, or spouse." The use of this law by the Hungarian Government to determine emigration eligibility has discouraged many of its citizens from applying for permission to travel abroad. Extending the review period would only serve to strengthen the Hungarian Government's hold over its citizens with the use of U.S. capital.

Failure to improve human rights despite U.S. nondiscriminatory tariff treatment indicates a lack of reciprocity on the part of the Hungarian regime and represents a unilateral concession on behalf of the United States. The U.S. Government has obtained very little from the Hungarians.

Their voting record at the United Nations and other international forums is always with the Communist bloc, and they show no streak of the foreign policy independence that is occasionally exhibited by countries such as Yugoslovia. For now, the government of Hungary should be maintaining its most-favored-nation status with yearly reviews.

U.S. trade policy must remain consistent in order to prevent the most-favored-nation status from becoming a designation useless as applied to Communist dictatorships. Recently the administration rejected Romania's most-favored-nation status for implementing an educational tax on emigrants.

Hungary's emigration law is equally restrictive and should not be passed over lightly by the United States. We should refine our approach to the linkage of trade and human rights and exercise our leverage with greater skill.

It is also the opinion of the Freedom Federation, which represents over 6 million Americans living in the United States, that no action on H.R. 2603 be taken this year and that future consideration of extending the review period for Hungary should be conditional on the revision of the Hungarian emigration law.

Thank you.

[Attachment to the prepared statement follows:]

FREEDOM FEDERATION—MEMBER ORGANIZATIONS

Abdala Cuban Movement.
Afghan Refugee Association.
American Latvian Association.
Bulgarian National Front in the USA.
Byelorussian American Association.
Californians for a Strong America.
Cham Minority Association.
Congress of Russian Americans.
Coordinating Committee of Hungarian Organizations in North America.
Cuba Independent and Democratic.
Czechoslovak National Council of America.
Estonian American National Council.
Free Cambodia.
Friends of Angola.
Lao Union Organization.
Lithuanian American Community of the USA.
Lithuanian American Council.
Pomost (Polish) Political Movement.
Ukrainian American Community in the USA.
Vietnam Freedom Movement.

Chairman GIBBONS. Thank you very much. This concludes our hearing for today on this set of bills. We may have future hearings later on.

Thank you very much.

[Whereupon, at 2:30 p.m., the hearing was adjourned.]

APPENDIX

The following agency reports have been received by the subcommittee up to the time of publication. In addition, any written comments received on specific bills have been inserted following the reports. The material is arranged numerically by House bill number.

General Comments

Statement of David J. Steinberg, President, U.S. Council for an Open World Economy, Inc.

(The U.S. Council for an Open World Economy is a private, non-profit organization engaged in research and public education on the merits and problems of developing an open international economic system in the overall national interest. The Council does not act on behalf of any private interest.)

This statement submits the Council's views on the bills specified below. Absence of a stated position on the other bills before the subcommittee (bills we have not had an opportunity to study) should not be interpreted either as support or opposition.

The Council supports those bills the subcommittee is considering that would reduce or suspend tariffs, although we would prefer permanent reductions or suspensions, leaving resumption of present tariffs on these products conditional on proof that such subsidies are essential as components of coherent adjustment strategies addressing the real problems and needs of these industries. Those U.S. producers who object to these duty reductions or suspensions should seek remedies for their industrial difficulties through measures that avoid import restriction except as steps of last resort and only if essential to coherent adjustment strategies addressing the basic problems of these industrial sectors.

We oppose those bills that would raise duties on various products or impose import quotas on others. Such import restraints would not be based on thorough assessments of the problems and needs of these industries in accordance with procedures established by existing law. Nor would such subsidies have any relation to coherent adjustment strategies—a relationship which existing law does not require but which is a reform whose time has come.

Having opposed the quota controls negotiated on shipments of various carbon steel products from the European Community to the United States (for such controls are not established as indispensable components of a coherent strategy addressing the real problems of this industry), we consequently oppose a bill (H.R. 2299, "Fair Trade in Steel Pipe and Tube Products Act of 1983") that would establish a mechanism for enforcing export controls on the pipe and tube products covered by that agreement. If the bill is to be passed, we see some merit in the proposal to exempt from the bill semi-finished pierced tubular shells (so-called "green tubes," which are the raw material for U.S. processing firms that are not part of integrated steel operations). There appears to be some doubt that these items will be supplied in the required quantities by the European Community under the control agreement, inasmuch as the Community allegedly would be more interested in selling finished products with a higher value added in contrast to the low-value-added products required by independent U.S. processors making pipe and tube for the oil industry. It is reported that "green tubes" are not available from any domestic source other than the integrated steel companies.

We object to H.R. 1146, a bill that would raise U.S. tariffs on roses to the levels maintained by the European Community. The present differential between U.S. and EC tariffs on roses does deny U.S. roses the same access to the Community that EC roses enjoy in the United States, and may tend to divert some third-country rose exports away from the Community and to the U.S. market. However, the proper, constructive answer to the international competitive problems confronting U.S. rose

producers as a result of these tariff differentials lies, not in raising the U.S. tariffs to equivalence with those of the Community, but (a) in better efforts (possibly with government help) to improve the international competitive position of U.S. roses without recourse to tariff manipulation, and (b) in a comprehensive free-trade strategy aimed at removal of all artificial trade impediments by the industrialized countries as part of a definitive free-and-fair trade charter. If equivalence (what some call "reciprocity") in trade access is to be attained (as H.R. 1146 intends) by raising the lower tariffs to the levels of the higher tariffs rather than by securing the ultimate in constructive reciprocity through programmed removal of all these barriers, an unfortunate precedent will be set for other products in which tariff differentials become increasingly more objectionable.

Another shortcoming of this bill is its lamentable effect on U.S. consumers, who should not be penalized by measures aimed at helping U.S. rose producers. If the U.S. rose-producing industry needs and merits government help, the assistance should be through a coherent strategy addressing the real problems of this industry via domestic-policy measures, not through manipulation of the tariff. Trade restraints, if justifiable at all, should be measures of last resort and only if found to be indispensable components of such a strategy. A free-trade initiative is essential, regardless of any other measures that may be justifiable.

H.R. 191

To exempt certain charterboats in the United States Virgin Islands from the entry requirements of the customs laws.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 191, if enacted, would amend section 1441(3) of the Tariff Act of 1930 (19 U.S.C. 1441(3)) to add certain charterboats in the United States Virgin Islands to the enumeration of vessels not required to make entry at the customhouse. Specifically, charterboats on either day sail or term charter (hire for a specified period) which are carrying paying passengers on excursion from the U.S. Virgin Islands to the British Virgin Islands and back and which have not visited any hovering vessel would not be obliged to make entry on return. These vessels would be added to subsection 3 of the above section, which excepts from entry licensed yachts or undocumented American pleasure vessels not engaged in trade or violating in any way the customs or navigation laws of the United States and not having visited any hovering vessel (defined in section 401(k) (19 U.S.C. 1401(k)). The master of any such vessel or charterboat would be required to make a report within twenty-four hours after arrival to the appropriate customs officer of any article on board for which entry is required by law. Yachts and pleasure vessels have been exemptd from entry requirements under this subsection since 1954, with the proviso that articles for which entry is necessary be reported.

BACKGROUND INFORMATION

The expense and burden involved in making entry, particularly when the customs office is closed, are described as too great in comparison to the value of any statistics compiled. Inspections are said to occur on rare occasions, if at all.

The legislation would permit masters of charterboats to use the convenient practice available to masters of licensed yachts and pleasure vessels—that is, a phone call to the customs officer within twenty-four hours of an arrival in port to report any articles for which entry is necessary. Customs inspections may still be conducted at the discretion of the appropriate officer.

EFFECT ON REVENUE

If these charterboats are exempted from entry requirements, any fees currently being assessed on filing would be lost. Exact figures on the amount of fees collected are not available. However, there would be an associated saving for the Customs Service in the reduction of paperwork; an unknown amount of overtime pay might be saved as well. Since reports on articles for which entry is necessary must still be filed, no significant change in the amount of duties collected thereon is expected. Comparable numbers of vessel inspetions are likely to occur, leaving accompanying costs virtually unchanged.

STATEMENT OF HON. MARJORIE S. HOLT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

The subject of part of today's hearing is HR 191, of which I am a co-sponsor. I am also a co-sponsor of HR 1682, which is similar legislation.

The Annapolis Sailing School which has its headquarters in my district operates a cruising course out of Christiansted, Virgin Islands, and has done so for the past five years. The owner of the sailing school intends to remain a part of the business community in the Virgin Islands for the foreseeable future.

One of these pieces of legislation, if passed and signed into law, will greatly simplify operational procedures for the instructors and students of the Annapolis Sailing School in Christiansted, who will no longer have to check in with the U.S. Cus-

toms Service on every occasion when they sail from the U.S. Virgins to the British Virgins and back, sometimes in the space of twenty-four hours.

NATIONAL MARINE MANUFACTURERS ASSOCIATION,
Washington, D.C., June 17, 1983.

Hon. DAN ROSTENKOWSKI,
Chairman, U.S. House Ways and Means Committee, Washington, D.C.

DEAR MR. CHAIRMAN: The National Marine Manufacturers Association, representing more than 700 manufacturers of recreational marine equipment nationwide, wishes to go on record in support of H.R. 1684 as introduced by Representative de Lugo and cosponsored by Representative Holt.

This measure to exempt charterboats based in the U.S. Virgin Islands, the same as private yachts and pleasure boats, from making entry at the customhouse upon a return cruise from the British Virgin Islands would be as much a savings for the Customs Service as a convenience for charterboat operators and their passengers. In these times when the Federal government is looking for every possible way to save on operating expenses and bring down the budget deficit, there is something to be said for this. Further, since reports on articles for which entry normally would be required would still have to be filed within twenty-four hours after arrival in port there is not much chance for an evasion of payment of customs.

We hope your Committee will see fit to report H.R. 1684 favorably.

Sincerely,

RON STONE,
Director, Government Relations.

H.R. 657

To amend the Foreign Trade Zones Act to exempt bicycle component parts which are not reexported from the exemption from the customs laws otherwise available to merchandise in foreign trade zones.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27, 1983, the Administration testified that it objected to enactment of a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

H.R. 657—"To amend the Foreign Trade Zones Act to exempt bicycle component parts which are not reexported from the exemption from the customs laws otherwise available to merchandise in foreign trade zones."

We object to enactment of H.R. 657. We object to legislation which pre-empts established administrative procedures. An administrative mechanism already exists through which a pending petition to create a foreign trade zone utilizing bicycle components is being reviewed now. Congress has granted the Foreign Trade Zones Board the authority to consider the public interest when deciding whether to grant foreign trade zone status. Congress has granted the Board sufficient authority to deny an application if it is not in the public interest or to impose restrictions on activities in foreign trade zones.

As part of its review of the request for a foreign trade zone for bicycles, the Foreign Trade Zones staff has asked the Bureau of Industrial Economics of the Department of Commerce to assess the potential impact of establishing a foreign trade zone on the domestic bicycle and bicycle parts industries and on the overall economic interests of the United States. We believe that enactment of H.R. 657 would establish an unwise precedent which would only encourage other industries to seek Congressional decisions regarding foreign trade zone applications rather than to utilize the administrative mechanism provided. There would be no loss of revenue if H.R. 657 is enacted.

We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF LEGISLATION

H.R. 657, if enacted, would amend section 3 of the Foreign Trade Zones Act (19 U.S.C. 81c) to place restrictions on operations involving bicycle component parts. The legislation, like its companion bill S. 722, is intended to prevent application of the provisions of that Act to bicycle component parts unless these parts are reexported, either as parts or as components of complete bicycles.[1] The bills were introduced in response to the application by Huffy Corp. for foreign trade subzone status for its Celina, Ohio bicycle and bicycle parts manufacturing and assembly facility. Sponsors of the Senate bill stated they did not believe granting Huffy Corp.'s application which is now before the Foreign-Trade Zones Board would be in the public interest. The application is the first filed for such a purpose. The sponsors noted that the duties on bicycle parts are higher than the duties on finished bicycles and that Congress has limited temporary duty-free treatment to certain bicycle parts not manufactured domestically, in order to aid the domestic bicycle industry which, Senator Huddleston said, ". . . faces strong domestic and foreign competition for

[1] Congressional Record, March 8, 1983, p. S. 316: Comments by Senators Ford and Huddleston on S. 722.

U.S. sales of bicycles". Thus, allowing those imported bicycle parts which are competitive with currently produced U.S. parts into a foreign trade subzone without restrictions would permit the imported parts, once assembled into bicycles, to enter the United States at the lower finished bicycle rate of duty.[2] The Senators believe that this would upset a delicate competitive balance within the bicycle industry, forcing other bicycle manufacturers to seek foreign trade subzone status for their facilities, and would cause injury to the bicycle parts industry. The two Senators believe that the harm inflicted on other bicycle manufacturers and on the bicycle parts industry would outweigh the gain experienced by Huffy. They do support granting Huffy's Celina plant subzone status if it is required that the parts or bicycles are exported, for such status would make its product more competitive with foreign competitors (assuming an export market can be developed).[3]

DESCRIPTION AND USES

Parts of bicycles are used in the production of bicycles which, in turn are used for recreation, sports, exercise and transportation. Most parts of bicycles are made from steel, alloy metals, rubber, or plastic materials. U.S. manufacturers of bicycles either produce parts in their plants or purchase from domestic or foreign sources those parts they need to produce a bicycle. Certain parts, primarily for multispeed lightweight bicycles, are, with one exception, not produced in the United States and currently enter duty free under temporary items 912.05 and 912.10 of the Appendix to the TSUS. Many of the imported parts are of higher quality than similar U.S. parts; U.S. producers of bicycle component parts face significant direct price and quality competition for all of the parts they supply.

TARIFF TREATMENT

The legislation refers to "bicycle component parts" without describing all the articles and listing corresponding Tariff Schedules of the United States (TSUS) items which would be involved. Most bicycle component parts, when imported separately, are classified as "parts of bicycles" under TSUS items 732.30 through 732.42 of part 5C of schedule 7. Other parts, however, are classified in accordance with general headnote 10(ij), under more specific provisions elsewhere in the TSUS. A ruling by the Customs Service, C.I.E. 575/57, March 11, 1957, makes a distinction between two groups of parts and illustrates the difficulties which could arise in interpreting the phrase "bicycle component parts". The first group lists parts included in the definition of a bicycle "complete without accessories" for purposes of weighing "bicycles having both wheels over 25 inches in diameter" under TSUS items 732.12, 732.14, and 732.16. The duty rates for these items vary considerably based on the bicycle's weight. A second group includes those parts or components classifiable with the imported bicycle and subject to the same rate of duty when the article is considered an entirety, provided that the components would be sold at retail as a component of the

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[2] Foreign merchandise (goods of foreign origin which have not been released from Customs custody within the customs territory) in a Foreign Trade Zone (FTZ) may have either privileged or nonprivileged status. If such articles have not been "manipulated or manufactured so as to effect a change in tariff classification" (19 CFR 146.21), an application may be made to the district director of Customs to treat the goods as privileged. If the application is accepted, the goods are classified and appraised and the duties liquidated according to their condition and quantity on the date of filing, though the duties need not be paid until entry into the customs territory. Other foreign merchandise is afforded nonprivileged status, and duties are payable at the entry into the customs territory in the condition and quantity imported. The choice of declaring privilege can result in a significant difference in duties, particularly if duty rates are about to change or if, for example, duties are calculated on privileged parts which are then made into a finished article, which would have been assessed at a higher rate. In the case of bicycle parts now subject to duty, privileged status is likely not being declared, since the duty rate for bicycles is lower than duty rates on these "competitive" parts. Parts now afforded temporary free entry might be declared privileged to retain their identity as parts; under Customs regulation 19 CFR 146.48(e)(1), such parts would not be subject to the bicycle duty rate. Bookkeeping and other administrative costs would be included in the analysis of whether to make such a declaration. None of these concerns would be relevant if the parts could only be exported outside the customs territory.

[3] The Foreign-Trade Zones Board has released for comment amended draft regulations which would permit the establishement of a zone or subzone "only in or adjacent to ports of entry"; "adjacent" is defined as "within 35 statute miles of a Customs port of entry". A subzone may be established at a more distant site only if the operator agrees to deliver all merchandise and documentation to a designated port for Customs inspection before admission to and removal from the zone, with appropriate bond. See 48 FR 16502 of April 18, 1983. If approved, these regulations may make it impossible or impractical for Huffy to obtain subzone status for its Ohio facility.

bicycle and not sold or distributed separately. This second group contains articles not included in determining the weight of the bicycle "complete without accessories", which thus would not affect classification.

The ruling listed the following articles and not more as those which constitute a bicycle "complete without accessories" and are weighed for purposes of the TSUS items listed above:

The mud guards and chain guards.
The frame and fork.
The handle bar and handle bar grips.
The sprocket, chain, cranks and pedals.
The front and rear wheels, including the rims, hubs, axles, and spokes.
The tires and tubes.
The brakes, hand or foot.
Dynamo mechanisms incorporated in hubs.
An assembly consisting of a dynamo mechanism incorporated in the wheel hub, and the related lamp, brackets and wiring.
Gear shift mechanisms.
The saddle or seat and seat post.
All fittings, bearings, nuts, bolts, washers, and other articles essential to the assembly of the foregoing.

Except for tires, tubes, chains, and certain fittings, these articles are classified in the parts provisions cited above. The ruling also set forth this list of the second group of components, which are in effect accessories, included in the bicycle as an entirety for duty purposes:

Lamps and lighting sets (other than lamps and lighting sets forming a part of an assembly including a dynamo mechanism incorporated in the wheel hub referred to above) and reflectors.
Bells and horns.
Tool kits and the included tools.
Pumps.
Luggage carriers.
Mirrors, cyclometers and speedometers.
Kickstands or other stands.
Tanks.
Mud flaps.
Toe clips.

Subsequent rulings added kickstands (removing them from the second or component list) and derailleur guards to the first list, articles included in weighing the bicycle. Many of these articles are classified in TSUS items elsewhere than in part 5C of schedule 7.

In addition to the most important TSUS items covering bicycle component parts, the following table sets forth the TSUS items under which bicycles enter. This will allow a comparison between the duty on bicycle component parts, if entered separately, and the often lower duty which would be collected instead on the value of the bicycle component parts as they entered the customs territory of the United States from the foreign trade subzone as nonprivileged integral component parts of the finished bicycle. The two most important TSUS items for complete bicycles are 732.12 and 732.18, under which 30 percent and 57 percent, respectively, of U.S. imports entered in 1982.

The column 1 [4] rates of duty and staged reductions granted under the Tokyo round of the Multilateral Trade Negotiations (MTN), as well as the column 2 rates of duty,[5] are set forth in the table. For item numbers followed by staged duty reductions, an LDDC rate of duty [6] equivalent to the 1987 duty is now in effect. Item

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[4] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

[5] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[6] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act

Continued

number followed by an "A" have been designated as articles eligible for duty free entry under the Generalized System of Preferences (GSP).[7]

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of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

[7] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column numbered 1 applies.

Bicycle component parts and bicycles: U.S. rates of duty, by TSUS items

(Dollar or cents per bicycle or component part; percent ad valorem)

TSUS item No. 1/	Description	Pre-MTN col. 1 rate of duty 2/	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1--								Col. 2 rate of duty
			1980	1981	1982	1983	1984	1985	1986	1987	
544.51A	Mirrors... not over 1 sq. ft. in reflecting area.	17.5%	16.3%	15.1%	13.9%	12.7%	11.4%	10.2%	9%	7.8%	50%
	Slip-jointed pliers:										
648.80A	Not forged, valued not over $6 per dozen.	20%	19%	18%	17%	16%	15%	14%	13%	12%	60%
648.82	Other----------	20%	19%	18%	17%	16%	15%	14%	13%	12%	60%
648.85A	Other pliers----------	1.6¢ + 10%	1.5¢ + 9.4%	1.4¢ + 8.9%	1.4¢ + 8.3%	1.3¢ + 7.8%	1.2¢ + 7.2%	1.1¢ + 6.6%	1¢ + 6.1%	1¢ + 5.5%	10¢ + 60%
648.97A	Pipe tools (except cutters), wrenches, and spanners, and parts.	11%	10.8%	10.5%	10.3%	10%	9.8%	9.5%	9.3%	9%	45%
651.17A	Screwdrivers----------	11%	10.4%	9.8%	9.2%	8.6%	8%	7.4%	6.8%	6.2%	45%
651.48A	Other hand tools----------	8.5%	8.1%	7.7%	7.3%	6.9%	6.5%	6.1%	5.7%	5.3%	40%
	Of iron or steel:										
	Valued under 40 cents per pound:										
652.13A	Bicycle chains and parts.	12.5%	11.8%	11%	10.3%	9.6%	8.8%	8.1%	7.3%	6.6%	40%
	Valued 40 cents or more per pound:										
652.15A	Bicycle chains and parts.	6%	5.8%	5.6%	5.3%	5.1%	4.9%	4.7%	4.4%	4.2%	40%
652.55A	Non-electric bicycle... bells and parts thereof.	20%	18.5%	17%	15.5%	14%	12.5%	11%	9.5%	8%	70%
653.19A	Other illuminating articles and parts thereof 3/.	19%	17.6%	16.2%	14.7%	13.3%	11.9%	10.5%	9%	7.6%	45%
657.25A	Other articles of iron or steel, not coated or plated with precious metal (luggage carriers, bottle holders, toe clips, and horns).	9.5%	9%	8.6%	8.1%	7.6%	7.1%	6.7%	6.2%	5.7%	45%
657.35A	Other articles of copper, not coated or plated with precious metal (horns).	0.6¢ per lb + 7.5%	7.4%	7%	6.7%	6.4%	6%	5.7%	5.3%	5%	46%
657.40A	Articles of aluminum, not coated or plated with precious metal (bottles).	9.5%	9%	8.6%	8.1%	7.6%	7.1%	6.7%	6.2%	5.7%	45%

See footnotes at end of table.

Bicycle component parts and bicycles: U.S. rates of duty, by TSUS items--continued

(Dollar or cents per bicycle or component part; percent ad valorem)

TSUS item No. 1/	Description	Pre-MTN col. 1 rate of duty 2/	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1--								Col. 2 rate of duty
			1980	1981	1982	1983	1984	1985	1986	1987	
661.15A	Other air pumps	5%	4.8%	4.7%	4.5%	4.4%	4.2%	4%	3.9%	3.7%	35%
	Portable electric lamps with self-contained electrical sources, and parts thereof:										
683.70A	Flashlights and parts	35%	33.8%	32.5%	31.3%	30%	28.8%	27.5%	26.3%	25%	35%
683.80A	Other	13.75%	12.9%	12%	11.2%	10.3%	9.5%	8.6%	7.8%	6.9%	40%
685.70A	Electrical bells,..., and other sound or visual signalling apparatus, and parts thereof.	4%	3.8%	3.7%	3.5%	3.4%	3.2%	3%	2.9%	2.7%	35%
711.93	Bicycle speedometers and parts thereof.	27.5%	26.2%	24.9%	23.6%	22.3%	20.9%	19.6%	18.3%	17%	110%
711.98A	Other revolution counters and parts (cyclometers).	5%	4.4%	3.8%	3.1%	2.5%	1.9%	1.3%	0.6%	Free	35%
	Bicycles:										
	Having both wheels not over 19 inches in diameter:										
732.02	Valued not over $6.25 each.	15% 4/									30%
732.04	Valued over $6.25 but not over $8.33-1/3 each.	93.5¢	87¢	81¢	75¢	69¢	63¢	57¢	51¢	45¢	30%
732.06	Valued over $8.33-1/3 each.	11% 4/									30%
	Having both wheels over 19 inches but not over 25 inches in diameter:										
732.08	Valued not over $10 each.	15% 4/									30%
732.10	Valued over $10 but not over $13.33-1/3 each.	$1.50	$1.38	$1.27	$1.16	$1.05	93¢	82¢	71¢	60¢	30%
732.12	Valued over $13.33-1/3 each.	11% 4/									30%

See footnotes at end of table.

Bicycle component parts and bicycles: U.S. rates of duty, by TSUS items--continued

(Dollar or cents per bicycle or component part; percent ad valorem)

TSUS item No. 1/	Description	Pre-MTN col. 1 rate of duty 2/	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1--								Col. 2 rate of duty
			1980	1981	1982	1983	1984	1985	1986	1987	
	Having both wheels over 25 inches in diameter:										
	If weighing less than 36 pounds complete without accessories and not designed for use with tires having a cross-sectional diameter exceeding 1.625 inches:										
732.14	Valued not over $8.33-1/3 each.	11% 4/									30%
732.16	Valued over $8.33-1/3 but not over $16.66-2/3 each.	93¢	89¢	86¢	82¢	79¢	75¢	72¢	68¢	65¢	30%
732.18	Valued over $16.66-2/3 each.	5.5% 4/									30%
	Other:										
732.21	Valued not over $16.66-2/3 each.	15%	14%	13.1%	12.1%	11.1%	10.1%	9.2%	8.2%	7.2%	30%
732.24	Valued over $16.66-2/3 each.	11% 4/									30%
732.26	Other	15% 4/									30%
	Parts of bicycles:										
	Frames:										
732.30	Valued not over $4.16-2/3 each.	15%	14%	13.1%	12.1%	11.1%	10.1%	9.2%	8.2%	7.2%	30%
732.32	Valued over $4.16-2/3 but not over $8.33-1/3 each.	62.5¢	59¢	56¢	52¢	49¢	46¢	42¢	39¢	36¢	30%
732.34	Valued over $8.33-1/3 each.	7.5%	7.2%	6.9%	6.5%	6.2%	5.9%	5.6%	5.2%	4.9%	30%
732.35A	Coaster brakes designed for single-speed bicycles. 5/	15%	13.9%	12.8%	11.6%	10.5%	9.4%	8.3%	7.1%	6%	30%

See footnotes at end of table.

Bicycle component parts and bicycles: U.S. rates of duty, by TSUS items--continued

(Dollar or cents per bicycle or component part; percent ad valorem)

TSUS item No. 1/	Description	Pre-MTN col. 1 rate of duty 2/	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1--								Col. 2 rate of duty
			1980	1981	1982	1983	1984	1985	1986	1987	
732.38A	Three speed hubs whether or not incorporating a coaster brake; caliper brakes; multiple free-wheel sprockets. 5/	15%	13.9%	12.8%	11.6%	10.5%	9.4%	8.3%	7.1%	6%	30%
732.41	Variable speed hubs (except three speed) with internal gear-changing mechanisms, whether or not incorporating a coaster brake; derailleurs; drum brakes; click twist grips; click stick levers; cotterless type crank sets; rims; parts of all the foregoing and parts of bicycles consisting of sets of steel tubing cut to exact length and each set having the number of tubes needed for the assembly (with other parts) into the frame and fork of one bicycle. 5/	15%	13.9%	12.8%	11.6%	10.5%	9.4%	8.3%	7.1%	6%	30%
732.42	Other parts of bicycle 5/--	15%	15%	15%	14.2%	13.3%	12.5%	11.7%	10.8%	10%	30%
772.15A	Other articles of rubber or plastic chiefly used for... storing... beverages (water bottles).	8.5%	7.9% 6/	7.2%	6.6%	6%	5.3%	4.7%	4%	3.4%	80%
772.48	Bicycle pneumatic tires	5% 4/									10%
772.57	Bicycle tubes	15% 4/									30%
774.55A	Other articles not specially provided for of rubber or plastic (horns, mud flaps).	8.5%	8.1% 6/	7.7%	7.3%	6.9%	6.5%	6.1%	5.7%	5.3%	80%

1/ The designation "A" indicates that the item is currently designated as an eligible article for duty-free treatment under the U.S. Generalized System of Preferences (GSP) and that all beneficiary developing countries are eligible for the GSP.

2/ Rate effective prior to Jan. 1, 1980.

3/ Duty on generator lighting sets for bicycles, and parts thereof, temporarily suspended. See TSUS item 912.05.

4/ Duty was not reduced.

5/ Duty on certain parts of bicycles temporarily suspended. See TSUS item 912.10.

6/ Effective July 1, 1980, with respect to articles exported to the United States on and after July 1, 1980.

STRUCTURE OF THE DOMESTIC INDUSTRY

Two industries would be affected by this legislation: the domestic industry producing bicycle component parts and that producing bicycles. The bicycle component parts industry consists mainly of small businesses, the number of which is not known but is believed to be at least 50, plus about 40 firms which make custom-made frames (not finished bicycles). Total employment is believed to be more than 2,000 workers. Manufacturers of bicycles also produce certain basic parts such as tubing for frames, handlebars, rims for wheels, and other parts requiring basic bending and pressing operations. Although the five largest firms producing bicycle component parts are not know with certainty, six firms believed to be among the largest in the industry and the location of their principal plants are Excel, Divison of Beatrice Foods Co., Franklin Park, IL; Carlisle Tire & Rubber Co., Carlisle, Pa; ABS Industries, Inc. (Ashtabula, OH, Malvern, OH, Buffalo, NY, South Bend, IN, Clarksville, TN); Wald Manufacturing Co., Maysville, KY; Sun Metal Products, Inc., Warsaw, IN; and American Cycle Systems, Inc., Covina, CA.

In 1982, eight firms accounted for virtually all of the domestic output of bicycles. These companies are currently manufacturing a full line of bicycles in 11 establishments located in Ohio, Oklahoma, Tennessee, Illinois, Massachusetts, Pennsylvania, California, Mississippi, and Wisconsin. In addition, there were at least five small specialty bicycle manufacturers in California, Wisconsin, and New York. The following tabulation shows the names and locations of the principal plants of the firms believed to be the five largest bicycle manufacturers:

Name	Locations
Huffy Corp.	Celina, Ohio; Ponca City, Okla. [1]
The Murray Ohio Manufacturing Co.	Lawrenceburg, Tenn.
Schwinn Bicycle Co.	Chicago Ill.; Greenville, Miss.
Roadmaster Corp.	Olney, Ill.
Chain Bike Corp.	Allentown, Pa.

[1] Huffy has announced plans to close the Ponca City facility and will phase it out over the next 6 to 9 months. Wall Street Journal, April 15, 1983, p. 36.

According to their 1982 public annual reports, Huffy accounted for about 40 percent of U.S. producers' shipments of bicycles and Murray Ohio for about 33 percent. In 1981, total employment in the bicycle industry amounted to an estimated 8,000 employees; employment decreased to about 5,000–6,000 in 1982.

DOMESTIC PRODUCTION

The following tabulation shows estimated U.S. producers' shipments for parts of bicycles included in schedule 7, parts 5, subpart C,[8] and for bicycles during 1978–82:

[Dollars in thousands]

Item	1978	1979	1980	1981	1982
Parts of bicycles	$97,000	$130,000	$110,000	$115,000	$95,000
Bicycles:					
Quantity [1]	7,492	9,038	6,942	6,832	5,170
Value	$455,000	$620,000	$535,000	$560,000	$460,000

[1] Units in thousands.

U.S. IMPORTS

Bicycles.—The following tabulation shows U.S. imports of bicycles during 1978–82:

[8] U.S. producers' shipments for other bicycle component parts are not known.

[Dollars in thousands]

Item	1978	1979	1980	1981	1982
Quantity [1]	1,960	1,866	2,155	2,224	1,716
Value	$109,557	$106,380	$150,677	$184,632	$123,285

[1] Units in thousands.

On a quantity basis, Taiwan and Japan were the two principal suppliers of bicycles in 1982, providing the United States with 1.1 million units, or 64 percent, and 341,000 units, or 20 percent, respectively, of total imports. In 1982, U.S. imports of bicycles from sources assessed the column 2 duty rate amounted to 7,948 bicycles, valued at $239,892.

Bicycle component parts.—Complete data on U.S. imports of bicycle component parts are not available; as a result of general headnote 10(ij), certain articles are included in TSUS items under which many other types of articles are classified. The following tabulation shows those U.S. imports of bicycle component parts, by TSUS item or groups of items, during 1978–82, for which data are available.

[Dollars in thousands]

TSUS(A) item	1978	1979	1980	1981	1982
652.13	(1)	$71	$1	$4	$5
652.1520	$10,157	13,858	13,422	12,414	5,855
652.55	234	262	262	181	163
653.39 (pt.)	1,510	1,931	1,696	636	(2)
711.93	3,661	2,147	2,595	2,330	1,702
732.30–732.42	97,657	120,818	130,419	142,092	85,112
772.48	19,951	26,305	35,159	34,758	24,214
772.57	13,749	18,326	25,242	19,591	15,500
Total	146,919	183,718	208,796	212,006	[3] 132,551

[1] Less than $500.
[2] Not currently available.
[3] Does not include data for 653.39.

The principal sources of such imports in 1982 were Japan, $60.6 million, or 46 percent; Taiwan, $39.2 million, or 30 percent; Italy, $9.9 million, or 8 percent; and the Republic of Korea, $9.5 million, or 7 percent. For these same bicycle component parts provisions, total U.S. imports in 1982 from column 2 sources amounted to $37,325.

In addition, it should be noted that a substantial proportion of parts of bicycles provided for in various TSUS items in schedule 7, part 5, subpart C, now enter duty free under the temporary provisions of TSUS Appendix item 912.10. Similarly, the same temporary legislation applies to generator lighting sets for bicycles, and parts thereof, provided for in TSUS item 653.39 and afforded free entry under Appendix item 912.05. Separate data are not currently available on the volume of such duty-free imports in 1982. However, data for such imports in 1981 recorded $636,000 for TSUS item 912.05 and $59,244,000 for item 912.10. In 1981, duty-free imports entered under item 912.10 accounted for 42 percent of total imports, dutiable and duty-free, of all parts entered in subpart C, part 5 of schedule 7. Moreover, in 1981, another $4,626,000 entered duty-free under the provisions of the GSP under TSUS(A) items 652.13, 652.1520, and 652.55. Data for 1981 are probably more representative than those for 1982, when the bicycle and bicycle component parts industries were severely affected by the recession. Thus, parts valued at $64,506,000, or 30 percent, out of total parts imports of $212,006,000, entered duty-free in 1981.

U.S. EXPORTS

Bicycle component parts.—Data on U.S. exports of bicycle component parts are available only for those parts of bicycles classified in the TSUS under schedule 7, part 5, subpart C, and for bicycle tires and tubes. Such exports for 1978–82 are shown in the following tabulation:

	Thousands
1978	$9,242
1979	12,158

	Thousands
1980	14,574
1981	14,945
1982	7,953

Bicycles.—U.S. exports of bicycles are shown in the following tabulation for the years 1978–82:

[Dollars in thousands]

	Quantity[1]	Value
1978	73	$3,237
1979	52	3,440
1980	92	5,326
1981	91	5,934
1982	50	3,690

[1] Units in thousands.

The data illustrate that exports of bicycles have not been important for the bicycle industry. Thus, the provision in the proposed legislation which attempts to restrict operations in a foreign trade zone or subzone to making finished bicycles or reexporting parts would appear to have little practical application.

APPARENT U.S. CONSUMPTION

The following tabulation shows estimated apparent U.S. consumption of parts of bicycles included in schedule 7, part 5, subpart C,[9] and of bicycles during 1978–82:

[Dollars in thousands]

Item	1978	1979	1980	1981	1982
Parts of bicycles	$185,691,	$239,249	$226,907	$243,169	$172,223
Bicycles:					
Quantity [1]	9,379	10,852	9,005	8,965	6,846
Value	$561,320	$722,940	$680,351	$738,698	$579,595

[1] Units in thousands.

POTENTIAL ANNUAL LOSS (OR GAIN) OF REVENUE

Since this bill would prevent the manipulation in a foreign trade zone (FTZ) of bicycle component parts into bicycles for the U.S. market, and since Huffy Corp. is currently the only U.S. producer of bicycles seeking the right to establish a foreign trade subzone (assuming, under the amended regulations which may soon be effective, that subzone status could still be granted), estimates of changes in revenue will focus on Huffy. Absent this legislation, the granting of a FTZ to Huffy would result in a loss of revenue if privileged status is not claimed on dutiable parts because the duty paid on finished bicycles—which would apply to the value of these imported component parts when the bicycle entered the United States—is lower on average than the duty payable on the bicycle component parts if imported separately. Thus, this legislation would prevent a loss of revenue, compared to the situation in which zone operations could commence without restriction on U.S. sales.

In order to estimate how much revenue could be saved, certain assumptions had to be made.[10] As noted earlier, 1981 import data are believed to be more representa-

[9] Apparent U.S. consumption of other bicycle component parts is not known.

[10] In order to get an average duty for imported bicycles, a weighted average of duties for all imported bicycles was calculated. This implicitly assumes that Huffy's production mix resembles the mix of imported bicycles. It was assumed that all imported bicycle component parts are used by bicycle manufacturers in producing bicycles. Since Huffy accounts for about 40 percent of U.S. producers' shipments, it was assumed that it accounts for 40 percent of all imported bicycle component parts. It was further assumed that Huffy accounts for 40 percent of imports of each such part.

tive of normal conditions in the market and complete data are available on duty-free imports for that year for the TSUS(A) items under which parts imports are identifiable. The calculated duty on U.S. imports of bicycles in 1981 was 6.6 percent. Since there were few duty changes on bicycles in the Tokyo round, this duty has been used here as a representative rate. The difference between this duty and the 1983 duty for each bicycle component part was used to calculate the maximum possible duty which would be saved based on the value of the 1981 U.S. imports of such parts assumed to be entered by Huffy. This amounted to a revenue savings of about $2.3 million. However, the FTZ application is only for Huffy's Celina, OH, facility and not its Ponca City, OK, facility. Thus, the revenue saved should probably be halved to about $1.1 million.

However, if this legislation is enacted, it is believed that start-up of any zone operations aimed at exports is unlikely, since Huffy is not now exporting many bicycles. The present non-zone Ohio operations would likely continue, and there would be little or no revenue impact at current import levels.

TECHNICAL COMMENTS

This legislation, since it is drafted in ambiguous terms, would pose a serious administrative burden to the U.S. Customs Service unless Huffy's zone application is denied or withdrawn; a great deal of difficulty in the resulting interpretation, enforement, and bookkeeping would arise.

The term "bicycle component parts" needs to be more precisely defined. This report utilized Customs rulings to develop a working definition and to prepare a comprehensive list of possible bicycle component parts. In the legislation, it may be easier to list all part than to try to define a "bicycle parts"; but it should be noted that some parts are not identifiable as bicycle parts and may be used for other purposes. Customs officials should be consulted to assure that any list included is accurate and comprehensive. Once such a list is developed, precise definitions of each bicycle component part and the appropriate TSUS(A) item numbers should be included in the legislation or in the legislative history or regulations in order to minimize the difficulties of administering the law.

The proposed subsection (b) should be amended to specify that domestic parts could be used in zone operations, by inserting "not the product of the United States" after "Component parts". While presenting more problems to the Customs Service, this would avoid any restriction of U.S. industry. It should also be amended to clarify whether parts (whether or not assembled into a bicycle) could be brought into the customs territory from a zone (as opposed to directly from another country) on payment of duty at the rates applicable to parts. In addition, the phrases "exemption from the customs laws" and "unless such parts are re-exported from the United States" may each be interpreted in conflicting ways.

An effective date should be added to the proposed legislation, as follows:

SEC. 3. The amendments made by this Act shall be effective on date of enactment.

AMERICAN CYCLE SYSTEMS, INC.,
Covina, Calif., May 12, 1983.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR MR. GIBBONS: ACS Industries, Inc. is an important domestic supplier of quality bicycle components. It is a young, innovative and progressive company with a fine future. Unfortunately, present business conditions in our industry leave much to be desired.

Our industry was especially hard hit by the last recession when U.S. bicycle production hit low levels not seen since the early 1960's. The high U.S. dollar has made it difficult and in some cases impossible for U.S. parts makers to remain competitive. Never before in my recollection has there been such a confluence of negative factors for our industry.

Five times over the past twelve years, the domestic bicycle manufacturers have come before your committee asking that the duty on certain bicycle components be temporarily suspended. On each such occasion, this committee carefully balanced the interests of the bicycle manufacturers and the parts makers. To be honest, we had serious reservations whether the duty suspension bill was in the long term best interests of our industry.

However, we received assurances from the bicycle manufacturers, committee staff members and other government officials that the duty suspension bill would never

include parts made in the United States. This was the understanding and over the years it became formalized in numerous committee reports, testimony, etc. We felt that it was on the basis of that understanding that your committee repeatedly allowed extensions to the duty suspension bill each time it came up for renewal.

Now, Mr. Chairman, Huffy Corp., the largest U.S. bicycle manufacturer, is seeking an additional advantage through a foreign-trade sub-zone. If it succeeds, all other manufacturers will have no choice but to follow suit. If you cut through the rhetoric, there is one and only one reason why a bicycle manufacturer would want a foreign-trade zone, namely, to buy imported bicycle components at a lower duty rate. We are no longer talking about bicycle parts not produced domestically; we are talking about *all* bicycle parts!

What happened to our understanding? Were the concerns expressed over the years about our industry's plight merely lip service? We think not.

Mr. Chairman, foreign-trade zones would upset the very delicate balance that your subcommittee has painstakingly sought to maintain between a healthy parts industry and a competitive bicycle manufacturing industry. Fortunately, it is within your power to prevent this from happening. The vehicle is H.R. 657. We urge you to report it favorably without delay.

Respectfully submitted,

CHARLES W. STEPHENS, *President.*

ELRAE INDUSTRIES, INC.,
Alden, N.Y., May 11, 1983.

JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR MR. SALMON: We wish to give notice of our support to House Bill H.R. 657 regarding the foreign trade zone application of the Huffy Corporation and the bill in support of limitations if that application is granted. Elrae Industries has been a component part manufacturer to the bicycle industry since 1946. The primary products that we supply this industry include: bicycle fenders, chainguards, crank hardware sets, reflector brackets and other sheet metal stamping components. It has been our experience in recent years that the importing of complete bicycles and bicycle components has deteriorated our market and many of our customers are now buying component parts from foreign sources in addition to completed bicycles thus shrinking our market annually.

We are constantly striving to stay in the business of supplying components to the bicycle manufacturing industry and Huffy's action to import component parts with resulting duty reduction when put on a bicycle and then supplying the domestic market would deteriorate our market position even further. We support H.R. 657 in that at least the domestic market share of components we supply will not be adversely affected by the Huffy trade zone action.

Since 1979, our annual sales to the bicycle industry has been reduced from two million dollars per year to approximately nine hundred thousand dollars per year and it is still declining. This market share reduction which also includes price increases and inflationary pressures is continually declining due to the action of the foreign trade markets on our original equipment manufacturer accounts. Actions such as Huffy to import more products, Schwinn closing down its Chicago facility and having approximately 50 percent of its production overseas has deteriorated the balance of the O.E.M. accounts we can deal with, thus causing great concern to our viability as a parts manufacturer.

We request that every consideration be given to the plight of the American bicycle component manufacturer and in addition to other domestic manufacturers who would be adversely affected if you do not support us in H.R. 657.

Thank you for the ability to express our position in this matter and we look forward to you support.

Very truly yours,

ANTHONY J. MANCUSO, *President.*

NATIONAL BEARINGS CO.,
Lancaster, Pa., May 9, 1983.

JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR SIR: National Bearings Company is a United States manufacturer of ball bearings and bearing components located in Lancaster, Pennsylvania. We employ over 100 and supply products to a broad cross section of American industry. Among the largest industries we supply is the bicycle and bicycle components manufacturers.

We support passage of H.R. 657, the bill introduced by Congressman Carl Perkins which amends the foreign trade zone act to exempt bicycle components parts, not exported, from the exemption from the customs laws otherwise available to merchandise in foreign trade zones.

The bicycle component industries have been inundated by foreign competition in the past years to the point of severe injury. If this reform as expressed by H.R. 657 is not passed, not only injury continues, but the protection obtained by a selected manufacturer will give an advantage to the greater detriment of so many. The number of jobs lost will be high.

Please include our expression of support to Congressman Perkins bill H.R. 657 and include this statement in the Record of hearings of the Trade Subcommittee on Tariff and Trade bills dated May 5, 1983.

Thank you for your support.

Very truly yours,

JAMES R. SCHOEPLEIN,
Vice President, Chief Operating Officer.

SCORPION CYCLE, INC.,
Chatsworth, Calif., April 25, 1983.

Congressman SAM M. GIBBONS,
Chairman, House Subcommittee, Ways and Means, Washington, D.C.

DEAR CONGRESSMAN GIBBONS: The Foreign Trade Zone Docket No. 17-82 concerns the application by Huffy Corp. for Foreign Trade subzone status for its Selina, Ohio bicycle and bicycle parts manufacturing and assembly facility.

Scorpion Cycle, Inc. opposes this application. The U.S. bicycle industry, already polarized, is dominated by the two giants, Huffy Corp. and Murray Ohio, with a combined market share of 77 percent (Huffy Corp. with 42 percent market share). A number of smaller manufacturers share the remainder of the U.S. market, and Scorpion Cycle, Inc. is one of these.

Huffy and Murray, due to their economies of scale, enjoy lower costs than any of the remaining U.S. manufacturers. During the recent recession, the U.S. bicycle market has dropped 42 percent, from 9.0 million units in 1979 to 5.2 million in 1982. Both of the two giants have maintained their share of market by dropping prices (due to their lower cost structures) below our cost levels and we wonder if, in some cases, below their own costs. Huffy, in fact, the largest bicycle manufacturer in the world, has actually increased market share during the same period.

The remaining smaller manufacturers, due to their higher cost structures, are battling for survival. Any further advantage given to either of these giants in our industry, would destroy the smaller manufacturers, we would not be able to survive. Huffy, in its application, states that the granting of the subzone status would enable them to drop their prices by 2 percent. We maintain the advantage is a multiple of that, at least 6 percent and it could be as high as 8 percent.

H.R. 657 simply requires Huffy Corp. to continue to pay the existing duty on components they import. If the bicycles that are made from these components are then re-exported, they get a duty credit.

This resolution, while not as good as not granting the sub-zone at all, would at least maintain the current precarious state of the domestic industry, including both bicycle manufacturers and component manufacturers. It would not give additional advantage to Huffy and Murray, the giants, and would give the smaller manufacturers in our industry a chance for survival. We, at Scorpion Cycle, Inc., strongly believe the burden of proof should be on the Huffy Corp. to establish that granting of their application will not result in a net loss of domestic employment. Huffy should also be required to show that the net benefits to them from granting the application will exceed the net determinant to other bicycle and parts manufacturers. This would include providing the mathematics of the alleged 2 percent price drop.

Passing of H.R. 657 would nullify the disastrous effects of free trade subzone that Selina, Ohio would have on the remaining U.S. bicycle industry. We strongly urge its passing.

Yours truly,

PAUL R. HINKSTON, *President.*

STATEMENT OF CONRAD ANDERSON, VICE PRESIDENT-GENERAL MANAGER, SUN METAL PRODUCTS, INC.

1. Sun Metal Products, Inc., with main offices and plants located in Warsaw, Indiana, has been in business since 1946, producing rims and spoke wheels for most non-automotive products. Local employment level exceeds 160 people, with additional plants in Tennessee and Canada. Among the most important products produced are bicycle rims, with primary sales to major bicycle manufacturers.

2. This statement is presented in support of H.R. 657, a bill introduced by Congressman Carl Perkins to amend the Foreign Trade Zones Act to exempt bicycle component parts, not exported, from the exemption from custom laws currently available to merchandise in Foreign Trade Zones and Subzones.

3. The impelling reason for this statement is that Huffy Corporation, one of Sun Metal Products' major customers, has applied for a Foreign Trade Manufacturing Subzone at their Celina, Ohio plant, (Docket No. 17-82, currently being reviewed for decision by the Foreign Trade Zones Board). Approval of that application would allow bicycle rims, and other parts, which are currently dutiable at 13.3 percent, to be imported into that Subzone, assembled into complete bicycles, and subsequently become dutiable at rates as low as 5.5 percent.

Bicycle rims and other component parts are extremely import sensitive and very competitive in world markets. This potential change in duty rate will be very damaging to Sun Metal Products, as well as many other U.S. parts makers.

If Huffy reaps the savings of reduced duty rates, all other domestic bicycle manufacturers will seek similar Subzone sites in order to stay in competition with Huffy, who already has 40 percent of domestic production. The end result will be the destruction of U.S. bicycle component manufacturers.

Sun Metal Products strongly urges passage of H.R. 657 to protect the jobs and vitality of an entire industry that will be damaged beyond recovery if the Huffy Subzone is approved. Exporting jobs to Foreign countries cannot be in the public interest of the United States of America.

H.R. 717

To provide that certain property held in foreign-trade zones shall be exempt from State and local ad valorem taxation.

Statement of Al Cisneros, General Manager and Port Director, Brownsville Navigation District, Port of Brownsville, Tex.

H.R. 717, which provides that certain property held in Foreign-Trade Zones shall be exempt from state and local ad volorem taxation, will help attract additional business to our foreign-trade zone, which will in turn create more jobs and stimulate more trade and commerce to our area—two things which are badly needed.

The Brownsville Navigation District, Grantee of Foreign-Trade Zone No. 62, strongly supports this bill.

Statement of Ian W. McClung, President, International Association of Assessing Officers

I appreciate the invitation to present to the Subcommittee on Trade my views and the views of the International Association of Assessing Officers concerning H.R. 717, a bill to provide that certain property held in foreign-trade zones shall be exempt from state and local ad valorem taxation. I speak for the Executive Board of the International Association of Assessing Officers and for concerned assessment administrators throughout the United States in stating our opposition to the passage of any legislation that provides such an exemption from ad valorem taxes.

I. INTRODUCTION

The International Association of Assessing Officers [IAAO] is an organization with more than 7,500 members in 18 countries around the world. Though the responsibilities of the members are diverse, with the membership being comprised of employees of governments, schools and universities, law firms, accounting firms, and private businesses, we all share a common interest in the property tax and its administration. For nearly 50 years, since its inception in 1934, the association has sought to improve the standards of assessment practice, to educate those engaged in assessment practice, and to explain to the taxpaying public the true nature and importance of the work performed by assessors, those public officials who are reponsible for estimating the value of the property in a locality and for preserving evidence of that value in a property record system.

In pursuit of its objectives, the association offers unique and varied services to its members. One of these is an education program which, through classroom instruction and other means, offers training in the methods and techniques of real and personal property appraisal and in the principles and procedures of successful assessment administration. The course of instruction may be followed to earn a professional designation, including the Certified Assessment Evaluator (CAE). A second service to members is the research program. Based on a trained research staff and the extensive IAAO library, the program offers information services and technical assistance on all aspects of property tax administration. A third service is the publications program. This program supplies membership periodicals, instructional material, and reference books. Of special interest are the text "Property Assessment Valuation" and the reference manual "Improving Real Property Assessment." Finally, there is the conference service. IAAO sponsors a regular series of conferences and seminars. All of these are designed to encourage discussion among specialists and the public on common problems.

The role of assessors in property tax administration

As noted previously, assessors are government officials responsible for establishing the value of property for ad valorem tax purposes. They may be elected, appointed, or under civil service.

The assessment function generally is carried out by state and local governments. States are usually responsible for supervising the work of local assessors, for ensuring that levels of assessment are uniform for all local governments, and in a number of instances, for appraising properties that cross the boundaries of local governments or present other special difficulties. At the local level, the assessment jurisdiction may be the same as a county, city, township, or school district, or it may cross political boundaries under a consolidated government, such as a city-county or regional area. There are currently about 13,500 assessment jurisdiction in the United States.

In the U.S., both the governmental structure and the scope of the assessor's authority are delineated by the statutes of the 50 states and the District of Columbia. Most assessors, however, have the same general responsibilites and duties. The assessor is responsible for discovering, listing, and valuing all taxable property. (In some states, the assessor is required to value tax-exempt property as well.) This may include both real and personal property. (Real property may be loosely defined as land and all things attached to the land, and personal property as all other property.) In accomplishing this, the assessor is responsible to all individual property owners to ensure that values are proper so that each owner pays no more than his or her share of the property tax. The assessor is further responsible to all the people in ensuring that no property escapes the assessment process or is underassessed and that no property owner receives unauthorized preferential treatment.

A summary of the duties of the assessor common among most jurisdictions is contained in the following list:

1. Location and identification of all real property and all taxable personal property in the jurisdiction.
2. Inventory of all such property, including quantity, guality, and important characteristics.
3. Determination of the extent of taxability of each property.
4. Estimation of the market value of each taxable property as of the assessment date.
5. Calculation of the assessed value (sometimes a fraction of market value) of each property, and the equalized assessed value (a value refined to bring about greater equity within and among both locations and classes) of each property.
6. Preparation and certification of the assessment roll of the entire jurisdiction.
7. Notification to the owners of the assessed value of their property.
8. Upon appeal by the property owner, appearance and defense not only of the value of the property, but also of the methods used to establish value.
9. Repetition of all these steps periodically, usually on an annual basis.

The role of assessors in formulating property tax policy

The tax bill is the sum of elected officials' work in determining the property tax levy, the assessor's work in valuing property, and the collector's work in applying the local government's designated tax rates to the values. As participants in this process, assessors are deeply concerned with the entire process. One set of concerns is with the proper role of the property tax in local revenue structures—what proportion of revenues should be raised by the property tax? For what services?

Another set of concerns is with the tax rates that are applied to assessed values—as the tax base changes, will the rates be adjusted to provide sums sufficient for government and satisfactory to the taxpayers? Will the assessors receive all the blame for higher tax bills because an unchanged rate is applied to higher assessed values, or higher rates to a tax base reduced by exemptions? Thus, assessors are seriously concerned not only with the improvements in accuracy and efficiency that they can achieve, but also with general tax relief and reform, and especially with the specific effects of relief and reform activities on the administration of the property tax and on the property tax base.

The members of IAAO, acting through their Executive Board and staff, have thoughtfully considered the issues in tax reform, tax relief, tax exemptions, and policies for payments made in-lieu of taxes. The following policy statements have been officially adopted by the Association.

"The Role of the Property Tax in a Federal System of Government."

The International Association of Assessing Officers believes that the property tax is an essential part of truly balanced and equitable local tax system.

The property tax is a stable and reliable source of local government revenue because property values reflect long-term economic considerations, not short-term economic fluctuations. The property tax cannot be replaced by any other tax or combination of taxes without causing dramatic and unpredictable shifts in individual tax burdens and in the revenue-producing capacities of local units of government. The

property tax affords local government a strong measure of fiscal independence. The property tax also captures for local government some of the increases in property value that are partially created by public expenditures.

The property tax is not inherently inequitable, as is often claimed, and, in fact, has a number of advantages over sales and income taxes. It is the only tax that affords taxpayers an opportunity to examine not only the records of the assessments of their properties, but also the records of the assessments of similar or surrounding properties. Thus, taxpayers can assure themselves of equitable and uniform taxation. If they are dissatisfied with their assessments, property owners also are afforded an opportunity to appeal their assessments.

The association also believes that this visibility of the property tax serves to focus attention on the overall quality of governance. The fund of information that is developed in the course of the assessment process potentially has numerous other governmental and private-sector uses, such as land use inventories for planning purposes.

In recognition of the burdens placed on remaining taxpayers by increasing both the types of property and the types of property owners that are eligible for exemptions, IAAO has adopted the following policy statements.

"Exemptions and Other Forms of Property Tax Relief:"

The International Association of Assessing Officers believes that exemptions should be kept to an essential minimum and that other forms of property relief should be based on tax abatements or credits rather than limits on assessment increases, other-than-market-value assessment standards, and the like.

Recognizing that public policy may require that certain types of property be exempt from taxation, but that such exemptions can have an adverse economic impact on the tax bases of local units of government and cause increases in the tax burdens of property owners not receiving the exemptions, it is incumbent on state and provincial legislative bodies to exercise extreme caution in enacting exemptions and to ensure that no exemptions are granted unless (a) the exemptions will be beneficial to a substantial segment of the population of the state or province, or all similar properties or similarly situated taxpayers are accorded the same treatment, and (b) the benefits from the exemptions are significantly greater than the revenue losses they cause. It should be recognized that as the number of exemptions and property tax relief measures increases, the relative degree of tax relief enjoyed by the various groups of "favored" taxpayers becomes more and more obscure. Measures with conflicting objectives coexist poorly. As the tax base is reduced and tax rates rise to meet revenue needs, the arguments for additional relief measures become stronger. The result of this vicious circle is a generally increased cost of administration, a more complex if not incomprehensible tax system, and a general discrediting of the property tax.

The portions of the tax base that are shielded from taxation by partial exemptions, moreover, tend to be appraised less accurately than fully taxable properties. There may be political pressure to underassess all such properties in order to maximize the value of partial exemptions. In addition, there may be pressure in borderline cases to distort appraised values in order that more taxpayers may qualify for tax relief.

Exemptions from property taxes should therefore be reviewed at regular and frequent intervals to ensure that their continuation is justified. Where practicable, every private owner of exempt property should be required to apply for the exemption annually. Each taxing jurisdiction should publish a list of exempt properties each year showing the name of the owner, the location of the property, the size and value of the property, and any other relevant information to ensure that the taxpaying public is aware of property exempt from local taxation and the resulting impact on tax bills.

The association further believes that provincial, state, and national governments should institute comprehensive programs of payments in lieu of taxes to local governments.

If a decision is made to impose taxing or spending limits on local units of government, such limitation should be accomplished through other means than arbitrary limits on assessment increases and measures that forbid reassessments unless a property changes ownership. Such measures not only disregard the economic realities of the market place; they destroy any possibility of uniform and equitable assessment.

Finally, in recognition of the increasing national government involvement in the property tax field—through congressionally enacted measures such as the exemptions for Amtrak property adopted in recent years, and through decisions of the Supreme Court of the United States, in *Xerox Corporation* v. *County of Harris, Texas,*

decided by the Court in December 1982—IAAO has adopted the following policy statement.

"National Government Involvement in Property Taxation."

The property tax is essentially a local tax that is administered under the constitutions and statutes of states and provinces. National governments should therefore enact no legislation affecting the tax unless such action is absolutely necessary to ensure a basic constitutional right. When national legislation affecting the property tax is considered, legislators should examine carefully the impact of their actions on the tax bases of local units of government and on property taxpayers, and should take no final action without seeking expert advice from the officials of government who administer the tax. (The International Association of Assessing Officers also stands ready to assist in the evaluation of proposed legislation.)

II. IAAO'S VIEWS WITH RESPECT TO H.R. 717

The International Association of Assessing Officers, because of its concern over the increasing number of property tax exemptions recognized in the United States, noted with alarm the introduction of H.R. 717 in the U.S. Congress. Having reviewed the bill, we now have comments to present to Congress concerning the desirability of its enactment.

Initially, we would like to advance the proposition that the greatest weakness existing today in the administration of the property tax worldwide is the fact that many property owners pay no tax at all, while their neighbors are forced to bear more than their fair share of the ever-increasing cost of government services. We would like to discuss with you the rising tide of property tax exemptions, which has not only contributed to recurring financial crises for local government, but has created serious financial problems as well for those individuals who own non-exempt property to which tax burdens have been shifted.

Let us consider how big the total exemption problem really is in economic terms. Estimates are that at least $800 billion worth of real estate in the United States alone is exempt from ad valorem taxation—at least one-third of the value of real property in America. According to a study recently conducted by the Advisory Commission on Intergovernmental Relations, there is enough untaxed property in the U.S. to provide local governments with at least another $15 billion a year in desperately needed revenues if all exempt property were taxed on the same basis as other holdings.

In many areas of America, the percentage of tax-exempt real property is much higher than the national average, and the problem is particularly severe in metropolitan areas, where the cost of government services is highest and the need for increased revenue most acute. In Milwaukee, for example, 35 percent of the real property is tax exempt. In New York, 40 percent is exempt. In Boston, 61 percent of the real property is exempt; and in suburban Cambridge, where much of the real estate is owned by Harvard University, the percentage is well over 50 percent, as it is in Washington, D.C.

Exempt institutions seem to find the central cities an especially desirable location because their services can be accessible to the greatest number of people in the city. Moreover, the high cost of land in metropolitan areas makes it more likely that property will continue to be acquired there by a class of owners that is unaffected by other costs, such as the cost of taxation. Despite the high percentage of exempt property in many metropolitan areas, however, it would be a mistake to think of exemptions as merely a problem of the large cities. For example, over 50 percent of the real estate in Albany and Itaca, New York, and Athens, Ohio is exempt. A recent study showed than in 14 Appalachian counties, exempt property amounted to more than 40 percent of the real estate. In Alaska, Oregon, Idaho, Utah and Nevada, most of the land is owned by the federal government and therefore escapes local taxation. The truth is, all of America, in both urban and rural areas, suffers from an overabundance of ad valorem tax exemptions.

Unfortunately, what makes property tax exemptions most troubling is that they seem to be increasing. A 1973 study showed that exemptions in Baltimore had increased every year since 1966. A similar pattern was found in Richmond, Virginia going back in 1894. Scranton, Pennsylvania has lost 10 percent of its tax base through exemptions since 1970, and the amount of tax-exempt real property in such major cities as Boston, Pittsburgh, St. Louis and Washington, D.C. is increasing at the rate of 2 to 3 percent a year.

In the face of the rising tide of property tax exemptions, the International Association of Assessing Officers is urging government officials and others interested in property taxation to take a new look at exemptions. IAAO recognizes that the needs

of society and public policy indicate that certain types of property should be exempt from taxation. The association also recognizes that exemptions are not the only cause of inequity in property taxation, and the association pledges to continue its efforts to improve the property tax by generally fostering more equitable assessment practices. However, the association believes that a periodic reconsideration of exemptions granted in each jurisdication could contribute greatly to an alleviation of property tax inequity and the financial woes of local government.

It is our belief that many property tax exemptions would not be in effect today if lawmakers had been aware of the ultimate economic effects of these exemptions prior to their enactment. Precise analysis of the total effects of tax exemptions in some jurisdictions is made difficult because officials have not properly maintained records of exempt properties and their value. However, despite the scarity of information concerning exempt property in some communities, available studies substantiate certain trends.

To be specific about the costs that are imposed by exemptions, when property is removed from the tax base because it is devoted to a tax-exempt activity, government obviously loses the amount of tax revenue that it previously collected for that property. As the property tax base shrinks, without a corresponding reduction in government costs, governments are caught in a very difficult position. In order to make up the lost property tax revenue, either taxes on the remaining properties must be increased or the government services must be reduced, or, more commonly, some combination of the two must occur. At the same time, inflation is driving up the cost of maintaining even the existing level of government services.

An increase in their property taxes, coupled with a decline in govenment services, only encourages individuals and businesses to leave a community, and landlords to abandon marginal building. As business and jobs leave the community, and as buildings are abandoned, the property tax base is further eroded. And this erosion touches off yet another cycle of higher tax rates of the remaining property tax base and/or reduced government services.

The federal government, of course, bears a significant share of the responsibility for the harmful consequences of the rising tide of tax exemptions, since federally owned real property is the largest single category of exempt property in the country, and numerous other types of property are shielded from state and local taxation by federal law (Amtrack and certain other property involved with foreign and interstate commerce, for example). Therefore, when a proposal is made to impose yet another exemption on State and local governments already starved for revenue, the cumulative costs of federally required exemptions should be considered, and if current exemptions cannot be reduced in number, the Congress should at least resist efforts to impose the additional exemption unless it would clearly produce sizable public benefits.

Relative to the claimed benefits of H.R. 717, the bill would obviously promote foreign trade. However, it is just as likely to increase imports as exports for the United States. So, it can't be argued that the bill would necessarily have a beneficial impact on the nation's balance of payments.

In the short run, H.R. 717 would probably have a negative impact on the economic situation in the United States because it would encourage many companies to take advantage of cheap labor in other countries—manufacturing goods there rather than in the United States, and then storing them in American FTZs until buyers for those goods, either foreign or residents of the United States, could be found. Whether the bill's tendency to increase foreign trade would have any positive effects in the long run sufficient to offset this likely negative impact is problematic.

Referring to IAAO's policy statement on national government involvement in property taxation, I would argue that no reasonable grounds for the enactment of H.R. 717 have been proposed. No one has suggested that the passage of this measure is "necessary to ensure a basic constitutional right," and it is doubtful that the impact of this measure on the tax bases of local units of governments and on property taxpayers has been considered sufficiently by those who support the bill.

As matters now stand, it is true that many jurisdictions would not lose a substantial amount of revenue if H.R. 717 were passed, due to existing freeport and inventory exemptions enacted under state law. However, it can be anticipated that if H.R. 717 is enacted, and if state and local governments continue to experience budgetary shortfalls—as they probably will—many of those states not taxing goods in American FTZs may wish to do so, and they will find themselves precluded from seizing upon a valuable source of revenue. Meanwhile, other states—and their local governments—will be required to do without some badly needed revenue that was previously collected on an annual basis. Some state and local governments will then seek to close budgetary gaps by taxing more heavily the owners of residential property,

and other taxpayers who are less favorably situated to bear this burden than the international businesses that would benefit from H.R. 717.

There are also some problems with the language used by the draftsmen of H.R. 717, which should be seriously considered by the subcommittee. It is not clear what types of tangible personalty are covered by the bill. Does it cover inventory items only or also machinery and equipment "held" in a zone and utilized in manufacturing, processing, etc.? What happens if goods are "held in a zone for exportation," perhaps for a number of years, and then sold to a resident of the U.S.? Is anyone liable for ad valorem taxes that could have been assessed against the property if it had not been exempt?

Then there are the situs problems H.R. 717 would create. To be exempt from annual ad valorem taxes, must property be located in an FTZ on the assessment date only or for a certain percentage of the year? Even the effective date of the bill is ambiguous. Does the exemption apply to taxes payable after the effective date or only to assessments made after that date?

Balancing the possible benefits to be derived from H.R. 717 and the obvious harmful effect it would have on state and local government finances, while keeping in mind the knotty drafting problems raised by the bill, the International Association of Assessing Officers and state and local government officials throughout the United States do not believe the bill should be approved in its present form. In fact, I would suggest that Congress enact legislation clearly providing that property in a foreign trade zone may be subjected to state and local ad valorem taxation, except in cases where property imported to the United States is still a part of the stream of foreign commerce on the relevant assessment date or property has been irrevocably committed to export on that date and has actually begun its journey to another country. Courts of the United States have found these concepts satisfactory for use in resolving disputes concerning taxation of foreign commerce, and Congress may as well adopt them.

III. CONCLUSIONS

I conclude that H.R. 717, intended to expempt certain tangible personal property held in foreign-trade zones from state and local ad valorem taxation, should not be enacted.

The International Association of Assessing Officers stands ready to assist Congress in the future in the preparation and analysis of proposed federal legislation that may relate to the property tax.

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International Association of Assessing Officers. Property Assessment Valuation. Chicago, 1977.

NATIONAL ASSOCIATION OF TAX ADMINISTRATORS,
Washington, D.C., May 11, 1983.

Re H.R. 717, the bill to provide that certain property in foreign trade zones be exempt from state and local ad valorem taxes.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN GIBBONS: The Executive Committee of the National Association of Tax Administrators has asked this office to convey to the House Subcommittee on Trade its serious concerns over H.R. 717, the bill to provide that certain property held in foreign trade zones be exempt from state and local ad valorem taxation. The National Association of Tax Administrators is an organization of the state revenue agencies of the fifty states. Its membership includes the tax commis-

sioners and directors of revenue who have principal responsibility for the administration of state taxes and who serve as tax advisors to the state governors.

The NATA Executive Committee requests that the Subcommittee consider the following matters with respect to H.R. 717:

(1) H.R. 717 appears to be designed to resolve a purely local property tax problem. The issue is not a national problem, since the states predominantly follow the tax exemption practices the bill would establish with respect to foreign trade zones. The NATA Executive Committee questions the appropriateness of federal legislation which deals with a purely local situation, and it suggests that a more desirable approach would be to address such problems through changes in local law rather than through the use of Congressional authority.

(2) The National Association of Tax Administrators has surveyed the state revenue agencies with respect to their positions on H.R. 717. The responses indicate a widespread view that the bill would constitute an unjustified interference with state and local taxing powers and that personal property tax exemptions should be determined exclusively by state and local governments.

(3) The responses to the NATA survey also indicate that there is concern among the states that the language of H.R. 717 could be construed to permit the exemption of personal property beyond the apparent intent of the bill. The responses suggest that, under the bill, warehouses could be established in foreign trade zones to store, on a tax free basis, machinery, equipment and other goods used to produce inventory. Such goods are now taxable in some states, and the bill would result in a loss of revenue in these states. Another concern expressed in the responses to the NATA survey is that the bill might permit the exemption of goods held for use rather than sale, by importers in foreign trade zones. This form of personal property is also subject to state and local tax, and a federal law providing a tax shelter for such property could create an inequitable exemption and would deprive state and local governments of needed revenue.

Because of these matters, the NATA Executive Committee respectfully requests that no action be taken on the bill. Your consideration of the states' concerns over H.R. 717 is very much appreciated.

Sincerely,

LEON ROTHENBERG,
Executive Secretary.

STATEMENT OF DARRELL J. SEKIN, CHAIRMAN, DARRELL J. SEKIN & CO., INC., OPERATOR, FOREIGN TRADE ZONE NO. 39, DALLAS, TEX.

Foreign trade zones play an important part in making the United States competitive in the international marketplace. Zones contribute directly to the health of the economy by providing the competitive atmosphere for American "value added" activity, thus attracting investment and creating American jobs. Zones provide the flexibility in the international marketplace to permit the competitive movement of goods to such zones, from such zones, and in-transit through such zones originating from and destined to foreign countries, thus making our ocean ports and airports competitive with those of the rest of the world.

Those of us in the business of international commerce believe that Congress has already preempted state and local taxation of the type of goods dealt with by H.R. 717. The enactment of the Foreign Trade Zones Act of 1934 was itself an expression of the intent of Congress to assure that our country became competitive in the international marketplace and that our ports would competitively facilitate foreign commerce without the undue burdens of customs laws, regulations, and taxation that would otherwise render such tools of commerce ineffective in world trade. The recent Supreme Court decision in the *Xerox* case, decided in December, 1982, attests to the intent of Congress that state and local inventory tax has been specifically preempted by Congress.

Despite the general belief of Congressional preemption, Texas zones continue to be plagued by the lack of a definitive, single, statutory statement of preemption. Outside of Texas, state and local governments have restated the Federal preemption in state statutes, local ordinances, exemption letters, and a variety of other types of documentation in order to provide businesses with some certainty that those jurisidictions will recognize the Federal preemption. Texas Constitutional provisions prohibit this type of state and local action in Texas, and as a result Texas foreign trade zones are not able to provide businesses the certainty they need to make a committment to locate in Texas foreign trade zones.

This issue more than any other is preventing the orderly development of Texas foreign trade zones. Our zone, for example, has been unable to attract plant investment in the zone or long term tenants and users because of the fear of such potential zone users that their activities will, without warning, become embroiled in major controversy over state and local ad volorem taxation. In order for Texas zones to be able to compete effectively in overseas markets, we must have a permanent, clear-cut statue stating the Congressional preemption. H.R. 717 fully meets this pressing need.

As the operator of Foreign Trade Zone No. 39, a business user of a foreign trade zone, a businessman involved in international commerce, and an active proponent of free trade zones all over the world, I respectfully lend my unqualified support for this important piece of legislation. H.R. 717 will provide the national uniformity in international trade policy that it is necessary to an orderly development of international trade. The clear expression of the existing preemption of ad valorem taxation provided by H.R. 717 will give Texas foreign trade zone operators the assurance they need to promote the further development of foreign trade zones, and fulfill the Congressional intent in creating foreign trade zones.

H.R. 908

To provide for a 3-year suspension on the duty on beta-naphthol.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27 and May 10, 1983, the Administration testified that it had no objection to a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

We believe that the effective date of all bills that are not a continuation of current tariff treatment should be no sooner than fifteen days after enactment. Providing an effective date fifteen days after enactment will enable the U.S. Customs Service to notify its field offices and U.S. importers of changes made.

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H.R. 908—"To provide for a three-year suspension of the duty on B-naphthol."

We have no objection to enactment of H.R. 908. We know of no domestic production of B-naphthol as the last reported producer ceased production last year. Thus, suspension of the duty will have no adverse affect on any U.S. producers. Rather, the duty suspension will reduce the costs of B-naphthol to the 10–12 U.S. firms which are dependent upon imports. The USITC estimates that enactment of H.R. 908 would result in potential revenue losses of approximately $1.3 million during 1983, rising to $1.85 million in 1985.

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We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

BACKGROUND

H.R. 908, if enacted, would temporarily suspend the column 1 rate of duty [1] for β-naphthol, classified in item 403.28 of the Tariff Schedules of the United States (TSUS). The legislation would amend subpart B of part 1 of the Appendix to the TSUS to add a new item 907.06, with free entry for articles from countries entitled to MFN treatment for a three-year peroid. The column 2 rate of duty [2] would remain unchanged.

At the present time, β-naphthol is not produced in the United States. Domestic consumers must rely on imports as their only source. This legislation would eliminate the present duty on this chemical which increased the manufacturing costs of the derivative products.

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[1] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

[2] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

DESCRIPTION AND USES

The synthetic organic chemical, β-naphthol, is derived from naphthalene. Currently, this chemical is principally used as an intermediate in the production of pigments and dyes. Previously, the main use was as an antioxidant under the Generalized System of Preferences (GSP).[3]

STRUCTURE OF THE DOMESTIC INDUSTRY

Currently, β-naphthol is not produced in the United States. During 1977–81, there was only one domestic producer, American Cyanamid Co., which manufactured this chemical at a plant in West Virginia. In 1982, this domestic producer ceased production of β-naphthol because of declining demand for use as an antioxidant for synthetic rubber and competing foreign products in other end-use areas.

DOMESTIC PRODUCTION

During the past five years, domestic production data for β-naphthol were reported to the Commission by American Cyanamid Co.; however, these data cannot be published because to do so would reveal confidential business information.

U.S. IMPORTS

In 1981, imports of β-naphthol, by quantity, were 2.9 million pounds. The majority of these imports were from Poland, Italy, and West Germany. Smaller amounts were also imported from Taiwan and the People's Republic of China. The imports from Italy were primarily shipped to Montedison USA, Inc., while imports from West Germany were shipped to American Hoechst Corporation. The Commission staff was not able to readily identify the remaining significant volume importers; however, industry sources estimate there are approximately 8–10 importing firms in addition to the two just mentioned. The Commission staff did not find any imports from column 2 sources.

Estimated revenue loss [1]

Year:	*Thousands*
1983	$1,290
1984	1,613
1985	1,847

[1] Based on a average estimated value for β-naphthol of $0.86 per pound in 1983, $0.90 per pound in 1984, and $0.95 per pound in 1985. Imports of β-naphthol are estimated at 6.0 million pounds in 1983, 8.0 million pounds in 1984, and 9.0 million pounds in 1985.

TECHNICAL COMMENTS

The "Effective Period" column should be amended, in keeping with previous Committee practice, to show a specific date for termination of the duty suspension; e.g. "On or before 6/30/86".

BASF WYANDOTTE CORP.,
Parsippany, N.J., May 4, 1983.

JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR MR. SALMON: The Trade Subcommittee of the Committee on Ways and Means is currently holding hearings on miscellaneous tariff bills including H.R. 908, introduced on January 25, 1983 by Mr. Vander Jagt, which provides for a 3-year suspension of duty on B-Naphthol.

B-Naphthol is a chemical used primarily for production of organic pigments, rubber processing chemicals and dye intermediates. In 1982, the only U.S. producer,

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[3] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

American Cyanamid Company, discontinued production of B-Naphthol at its plant in Willow Island, West Virginia. As a result, all current U.S. requirements are supplied through imports from Italy, West Germany and People's Republic of China.

B-Naphthol is used to manufacture at least six major organic pigments which represent approximately half of the total 1981 volume of red and orange pigments produced in the United States. There is no direct substitute material available. The major pigment products include: Pigment Red 3, 4, 49:1, 49:2, 53 and Pigment Orange 2. The pigment products produced are used in the manufacture of printing inks, crayons, paints and in coloring plastics. Estimated consumption for these uses was approximately 2.6 million pounds in 1980.

Another major reported use for B-Naphthol is in chemicals used as antioxidants for synthetic rubber. Specific usage data is not available in published literature.

There are several other significant uses for B-Naphthol, including other pigment and dye intermediates, tanning agents, perfumes and pharmaceuticals.

Pigments produced in the United States compete primarily against imports of the same composition. The import volume of the six major pigment products was 274,000 pounds in 1981 and is estimated to have increased to 500,000 pounds in 1982. Twenty-two U.S. pigment producers produced at least one of these major products in 1980. Thus, elimination of the current duty would benefit the competitiveness of the entire U.S. organic pigment-producing industry.

BASF Wyandotte Corporation supports H.R. 908 and urges its approval by the Trade Subcommittee and the Committee on Ways and Means.

Sincerely yours,

ROBERT G. THOMA,
Director, Public and Government Affairs.

SYNTEX CORP.,
Palo Alto, Calif., May 5, 1983.

Re H.R. 908, Vander Jagt, 3 Year Duty Suspension on Beta-naphthol.

JOHN J. SALMON,
Chief Counsel, Ways and Means Committee, U.S. House of Representatives, Washington, D.C.

DEAR SIR: Syntex Corporation respectfully submits the following comments for the public record in connection with the hearing scheduled on May 5, 1983 relating to H.R. 908.

Syntex Corporation fully supports H.R. 908 which effectively suspends the duty presently levied upon the chemical intermediate, beta-naphthol.

In support of our position, we wish to emphasize that the only U.S. manufacturer, American Cyanamid, has discontinued production and cannot supply our requirements thereby forcing us to source beta-naphthol from abroad. Syntex' U.S. facilities now face the adverse economic consequences of paying a prohibitive duty on imported material for which there will be no viable domestic supplier; therefore, we petition the Committee for their endorsement of H.R. 908.

Syntex takes this opportunity to thank the Committee for their consideration of this important Bill.

Respectfully submitted,

LAWRENCE A. KIRKHAM,
Manager, Corporate Customs.

H.R. 1086

To suspend temporarily the duty on certain menthol feedstocks until July 1, 1986.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27 and May 10, 1983, the Administration testified that it had no objection to a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

We believe that the effective date of all bills that are not a continuation of current tariff treatment should be no sooner than fifteen days after enactment. Providing an effective date fifteen days after enactment will enable the U.S. Customs Service to notify its field offices and U.S. importers of changes made.

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H.R. 1086—"To suspend temporarily the duty on certain menthol feedstocks until July 1, 1986."

We have no objection to enactment of H.R. 1086. There are no domestic producers of these menthol feedstocks. Therefore, the duty suspension would have no adverse impact on any domestic producers. We understand that the menthol feedstocks subject to H.R. 1086 are used to manufacture *l*-menthol, which is chemically distinguishable from other types of menthol produced for commercial use and has distinct characteristics and users. The USITC estimates that enactment of H.R. 1086 will result in potential revenue losses of $600,000 in 1983.

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We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 1086, if enacted, would temporarily suspend the column 1 rate of duty [1] for certain menthol feedstocks, classified in item 407.16 of the Tariff Schedules of the United States (TSUS). The legislation would amend subpart B of part 1 of the Appendix to the TSUS to add a new item 907.13, providing free entry for "Mixtures containing not less than 90 percent by weight of stereoisomers of 2-isopropyl-5-methylcyclohexanol, but containing not more than 30 percent by weight of any one such stereoisomer (provided for in item 407.16, part 1C, schedule 4)" from column 1 countries until July 1, 1986, commencing on the date of enactment. The column 2 rate of duty [2] would remain unchanged.

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[1] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or under the "LDDC" column.

[2] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

DESCRIPTION AND USES

The menthol feedstocks described in this legislation are mixtures of synthetic organic chemicals produced from m-cresol. These feedstocks, which are used exclusively by Haarmann & Reimer to produce two isomers, *l*-menthol and *dl*-menthol, are crude mixtures of all eight optical isomers of menthol. They are produced by Haarmann & Reimer's parent company in West Germany and are consumed in its synthetic menthol plant in South Carolina. These mixtures have no other commercial use in the United States.

STRUCTURE OF THE INDUSTRY

These feedstocks are not produced in the United States. The domestic consumer must import them from its parent company in West Germany.

Although these menthol feedstocks are not produced in the United States, the final products, *l*-menthol and *dl*-menthol, are domestically produced by several firms from other raw materials. Haarmann & Reimer and SCM Corp. are producers of *l*-menthol; Givaudan Corp., Haarmann & Reimer, Union Camp Corp., and SCM Corp. manufacture dl-menthol.[3]

TARIFF TREATMENT

As a result of the Trade Agreements Act of 1979,[4] these feedstocks are presently classified in TSUS item 407.16. This item includes other mixtures in whole or in part of any of the products provided for in subpart B of part 1, schedule 4 of the TSUS. As shown in the following table, item 407.16 has a column 1 (MFN) rate of duty of 1.7 cents per pound and 13.6 percent ad valorem, but not less than the highest rate applicable to any component material. The column 2 rate is 7 cents per pound and 43.5 percent ad valorem, but not less than the highest rate applicable to any component material. No LDDC rate is provided.[5] The column 1 rate of duty is not scheduled for further reductions within the framework of the Tokyo round of the MTN. The commodities classified in TSUS item 407.16 are eligible for duty-free entry under the Generalized System of Preferences (GSP).[6]

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[3] U.S. International Trade Commission, *Synthetic Organic Chemicals: United States Production and Sales*, 1981, USITC Publication 1292, 1982.

[4] Section 223(d), 93 Stat. 205. As a result of the Customs Valuation Agreement of the Multilateral Trade Negotiations (MTN), the "American selling price" (ASP) method of appraising certain benzenoid chemicals was eliminated. The Commission's recommendations, contained in "The Probable Economic Effect of U.S. Adoption of New Rules of Customs Valuation" (Report to the Special Trade Representative on Investigation No. 322-98) formed the basis for the provisions contained in section 223(d). Under the ASP method of appraisement, imported benzenoid products considered to be "competitive" with similar domestic products (accomplishing results substantially equal to those of the domestic product used in substantially the same manner) were appraised on the basis of the U.S. wholesale price of the similar domestic product. Other imported products were appraised based on the "United States value", relying on price of the imported product, with such products generally assessed a lower duty than those appraised under ASP. These mixtures are considered benzenoid chemicals since they are derived from such a chemical (i.e., m-cresol).

[5] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column numbered 1 applies.

[6] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

Certain menthol feedstocks: U.S. rates of duty, by TSUS item

(Cents per pound; percent ad valorem)

TSUS item No. 1/	Description	Pre-MTN col. 1 rate of duty 2/	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1--								Col. 2 rate of duty
			1980	1981	1982	1983	1984	1985	1986	1987	
407.10A	Other mixtures of any of the products provided for in subpart B	1.7¢ + 12.5%	1.7¢ + 13.6%, but not less than the highest rate applicable to any component material	3/	3/	3/	3/	3/	3/	3/	7¢ + 43.5%, but not less than the highest rate applicable to any component material

1/ The designation "A" indicates that the item is currently designated as an eligible article for duty-free treatment under the U.S. Generalized System of Preferences (GSP) and that all beneficiary developing countries are eligible for the GSP.

2/ Rate effective prior to July 1, 1980.

3/ The converted rate of duty is the final rate.

U.S. IMPORTS

The Commission staff was not able to specifically identify imports of menthol feedstocks during 1977–82 from either column 1 or column 2 sources. According to the only U.S. importer of these mixtures, Haarmann & Reimer Corp., Springfield, New Jersey, the following quantities were imported from West Germany during 1977–81:

Year:	*Quantity*[1]
1977	440
1978	1,320
1979	1,430
1980	1,540
1981	1,720

[1] Pounds in thousands.

In 1981, U.S. imports of these mixtures were valued at approximately $2.7 million. In 1982 U.S. imports were 2.4 million pounds valued at $3.5 million on a C.I.F. basis.

U.S. EXPORTS

There are no exports of these mixtures from the United States since all imports are consumed domestically in the production of *l*-menthol and *dl*-menthol.

APPARENT CONSUMPTION

Since there is no domestic production, domestic consumption is essentially the same as the imported quantity of these mixtures.

POTENTIAL ANNUAL LOSS OF REVENUE

Based on estimates by the importer of the level and value of these mixtures, the following are potential customs revenue losses for a 3-year period from 1983 through 1985.

Potential revenue loss[1]

Year:	*Thousands*
1983	$625
1984	610
1985	629

[1] Based on an average estimated value for these mixtures of $1.59 per pound in 1983, $1.55 per pound in 1984, and $1.60 per pound in 1985. Imports of these mixtures are estimated at 2.2 million pounds in 1983, 1984, and 1985. The calculations were based on a duty rate of 1.7 cents per pound and 16.8 percent ad valorem, the column 1 rate for item 407.05. The rate of duty for item 407.05 is applied because it is the highest rate applicable to any component material of the mixtures being imported; that is, mixtures of optical isomers of menthol. If each component material was imported separately (that is, not as a mixture), these optical isomers of menthol would be classifiable in item 407.05.

TECHNICAL COMMENTS

The phrase "part 1C" should read "part 1B" in the tabular material following line 5.

STATEMENT OF HON. THOMAS F. HARTNETT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF SOUTH CAROLINA

Mr. Chairman, thank you for allowing me this opportunity to provide some information pertaining to H.R. 1086. This legislation proposes to temporarily suspend the duty on certain menthol feedstocks until July 1, 1986. A companion measure is pending in the Senate Finance Subcommittee on International Trade.

In 1977, the Haarmann and Reimer Corporation, at a cost of $16 million, brought their menthol production plant on line. This plant is located in my district and contributes a healthy amount of capital to the local and state economy. The menthol produced in this plant is most notably used in the production of menthol cigarettes, although it is also used for other purposes. Since the plant began production, however, a multitude of international trade problems have plagued the plant's ability to compete against foreign dumping of menthol in this country.

Briefly, I would like to outline the problem facing American prodution of menthol. The Peoples Republic of China previously imported menthol to the U.S. Under Column 2 (Communist), which meant an import duty of fifty cents per pound of menthol. However, when China was granted Most Favored Nation (MFN) status, the duty on menthol fell to just seventeen cents per pound. To make matters worse, menthol was also placed on the Generalized System of Preferences (GSP) eligible list and significant quantities were imported from Brazil during 1981 on a duty-free basis. These developments have placed Haarmann and Reimer at a competitive disadvantage in the domestic market.

Furthermore, at the same time when the above-mentioned events occured, Haarmann and Reimer was paying an increased import duty on special raw material for their menthol plant (imported from West Germany). The duty on these raw materials rose from 12½ percent plus $.017/1b. to 16.8 percent plus $.017/1b.

DUTY SITUATION—MENTHOL RAW MATERIALS

In 1975, a duty classification was obtained from the Bureau of Customs listing Haarmann and Reimer materials with TSUS 403.90 at 12.5 percent ad valorem plus $0.017/1b. specific. With the Trade Act of 1979 the TSUS classification changed to 407.16 at 13.6 percent plus $0.017/lb. specific and subsequently to 407.05 at 16.8 percent plus $.017/1b. specific.

Although the 1979 Trade Act reduced most tariffs, menthol feedstocks actually were increased in duty. These increased duties have cost Haarmann and Reimer nearly $60,000 per year more, raising their total estimated annual duty to more than $320,000. This is equivalent to about twenty-one cents per pound for the finished product, whereas imported menthol from China or Brazil is subject to a duty of only seventeen cents per pound.

As I mentioned earlier, a companion measure, S. 221, is pending in the Senate Finance Subcommittee on International Trade. Senator Danforth, Chairman of that Subcommittee, is prepared to vote S. 221 out to the full committee. I have been informed that Senator Danforth received no objection from the various executive agencies which commented on the bill. The Senator, however, has indicated that he is awaiting action in this subcommittee before he goes any further.

H.R. 1086 is not a protectionist measure. It simply eliminates a penalty which, if not removed, could put this American plant out of business. I encourage the Members of the Subcommittee to support H.R. 1086 and give the U.S. a chance to compete.

H.R. 1146

To amend the Tariff Schedules of the United States to provide for rates of duty on imported roses consistent with those maintained by the European Economic Community on imports of roses from the United States and other nations.

U.S. TRADE REPRESENTATIVE

This is in response to your request for comments on H.R. 1146, a bill to amend the Tariff Schedules of the United States to provide for rates of duty on imported roses consistent with those maintained by the European Economic Community on imports of roses from the United States and other nations. This bill would raise the duty on roses from the current rate of 8 percent to 17 percent in the Summer and 24 percent during the rest of the year.

This Office is strongly opposed to this bill. The U.S. tariff on roses, like most U.S. tariffs, is bound under the General Agreement on Tariffs and Trade (GATT). The United States has agreed not to increase these tariffs above the current level in exchange for similar commitments by our trading partners on their tariffs. Enactment of this legislation would likely subject the United States to claims for compensation in the form of reductions of U.S. tariffs on other products or retaliation in the form of increased tariffs applied to U.S. exports.

There are administrative remedies available under U.S. trade laws to aid domestic producers faced with unfair or injurious competition from imports. We believe that duty increases should be considered only in the context of the operation of statutory import relief programs. Duty increases outside of these mechanisms would be precisely the type of protectionist action which the United States and its trade partners agreed to avoid during the GATT Ministerial meeting in November.

The Office of Management and Budget advises that presentation of these comments is consistent with the Administration's program.

DEPARTMENT OF AGRICULTURE

This is in response to your request for this Department's views and comments on H.R. 1146, a bill "To amend the Tariff Schedules of the United States to provide for rates of duty on imported roses consistent with those maintained by the European Economic Community on imports of roses from the United States and other nations."

The Department opposes enactment of this bill.

This bill would provide for increased duties on cut roses above the 8% negotiated in 1979 in the Multilateral Trade Negotiations. Any unilateral action resulting in an increased duty means that the United States would owe compensation for removal of this international commitment to countries supplying roses and would be obliged to adjust duties on other products or risk the possibility of retaliatory action against U.S. exports. There is no legislative authority for the Administration to make compensatory tariff adjustments.

The bill seeks to link U.S. duties to those in the European Community. The Department questions the rationale for such a procedure as Colombia is the leading supplier of roses to the United States—$16 million of the the total $18.8 million in 1982. Other minor suppliers are the Netherlands, Guatemala, Canada and Israel—$1.2 million, $0.4 million, $0.4 million and $0.3 million respectively. It might also be noted that the bill, as currently drafted, provides for a 24 percent duty during the winter months at a time when the duty in the European Community is 17 percent, and vice versa. The proposed duties thus would not be consistent with those of the European Economic Community.

Enactment of this bill would involve no additional costs for the U.S. Government.

The Office of Management and Budget advises there is no objection to the presentation of this report from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

The purpose of H.R. 1146 is to increase the column 1 rate of duty [1] on imports of roses so that it would be consistent with (equivalent to) those maintained by the European Economic Community on imports of roses from the United States and other nations. The bill would increase the column 1 rate of duty from 8 percent to 24 percent ad valorem during the period November 1 of one year to May 31 of the following year and from 8 percent to 17 percent ad valorem during the period June 1 to October 31 in any year. The legislation would not affect the current column 2 rate of duty [2] which would apply throughout the year. To accomplish this, the current Tariff Schedules of the United States (TSUS) item providing for roses, 192.18, would be deleted, two new items added to subpart G of part 15 of schedule 1, and two other existing items redesignated.

DESCRIPTION AND USES

Roses are members of the family Rosaceae; at least 100 species and thousands of varieties are known to exist. The two most commercially important types of these relatively expensive flowers are the sweethearts and the hybrid teas. Roses may be white, pink, red, yellow, orange, or intermediate shades or tints. Cut roses are used in wreaths and bouquets for ceremonial occasions and for general decorative purposes. As fresh cut flowers, roses may last 3 to 5 days in the home without the use of a preservative and 5 to 7 days with the use of a preservative.

TARIFF TREATMENT

Imported roses are classified for tariff purposes under item 192.18 of the TSUS. The column 1 rate of duty currently applicable to such imported roses is 8 percent ad valorem, and the column 2 rate is 40 percent ad valorem. The column 1 bound rate reflects a concession granted by the United States in the Tokyo round of trade negotiations under the General Agreement on Tariffs and Trade, effective January 1, 1980, and is not scheduled for further reductions. The United States had previously granted concessions on fresh cut flowers in 1939, 1948 and 1963. Roses are not eligible for duty-free treatment under the Generalized System of Preferences (GSP).[3]

All imported roses are subject to Federal quarantine inspection to prevent the spread of injurious plant pests (7 CFR 319.74). Inspections are said to be made quickly and result in very few detentions. Imported roses also require a permit, but this permit is readily obtainable for roses shown to be free of injurious plant pests.

PREVIOUS INVESTIGATIONS

In its Investigation No. TA-201-42 concerning fresh cut roses, the Commission determined that roses were not being imported in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry.[4] While imports had increased, the information received in the investigation did not warrant the conclusion that the other statutory criteria had been met.

In Investigation No. 701-TA-21 (Preliminary), the Commission determined that there was no reasonable indication that a U.S. industry was being materially injured or threatened with material injury or that its establishment was materially

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[1] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

[2] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[3] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

[4] Report to the President of April 15, 1980, USITC Pub. 1059.

retarded by reason of imports of fresh cut roses from the Netherlands.[5] The existence or absence of subsidies was therefore not determined.

No report was issued in Investigation No. 731-TA-43 (Preliminary), instituted on June 8, 1981, since the petition was dismissed by the Department of Commerce on the basis of inadequate information.[6]

STRUCTURE OF THE DOMESTIC INDUSTRY

Most rose growers raise both the hybrid tea and sweetheart types. It is estimated that there are fewer than 250 commercial rose growers in the United States. In 1981, the last year for which official statistics of the U.S. Department of Agriculture are available, there were 222 growers of hybrid tea roses in the 14 major producing states, and 177 growers of sweetheart roses in the 13 major producing states.[7] It is estimated by the staff of the U.S. International Trade Commission that the major producing states accounted for at least 90 percent of U.S. rose production in 1981.

U.S. rose growers vary in size, in terms of number of rose plants in production, from firms with as few as 2,000 rose plants to those with over a million plants. In the mid 1970's, less than a fourth of the total number of growers of hybrid tea and sweetheart roses accounted for more than three-fifths of the production of those rose types. The concentration of production by growers has trended upward in recent years.

Many U.S. rose growers are diversified in their output, producing other types of cut flowers, potted flowering plants, or other floricultural products. The importance of cut rose production to their overall operations varies significantly by firm. An average size U.S. rose-growing operation would have about 88,000 rose plants in production, requiring about 135,000 square feet of greenhouse space. The grower would sell about 2.1 million rose blooms from these plants and would have total rose sales of about $550,000 annually.

The production of roses is a long-term investment. A typical rose plant will be in production for 4 to 6 years and will produce between 80 and 150 blooms during that time, depending on the variety.

DOMESTIC PRODUCTION

During 1978-82, U.S. production of roses increased from 464 million blooms, valued at $97 million, in 1978 to 492 million blooms, valued at $109 million, in 1979, before declining to 467 million blooms, valued at $124 million, in 1981 (table 1). It is estimated by industry sources that domestic production continued to decline in 1982 to 444 million blooms. The significant increase in domestic production in 1979 is believed to have occurred when producers of other floriculture crops shifted to fresh cut rose production because of the poor economic return from these other crops as compared with fresh cut roses in 1978.

Data on domestic production for the time periods covered by the proposed legislation are not available. However, data gathered during the Commission's investigation on fresh cut roses in 1980 (Inv. No. Ta-201-42, *supra*) indicate that in 1979 the bulk of U.S. production of hybrid tea roses was scheduled during January-June and October-December, when demand is high. Although growing conditions are ideal in July-September, it is usually not a period of high production. The demand for fresh cut roses in those months is low due to the availability of roses from home gardens, the smaller number of holidays, and the pursuit by many people of outdoor activities during the summer months. The bulk of U.S. production of sweetheart roses is scheduled during April-September of each year. In 1979, this period accounted for nearly 60 percent of U.S. production. The demand for sweetheart roses is very high during this period owing to their popularity for use in weddings.

U.S. IMPORTS

During 1978-82, U.S. imports of roses increased substantially each year, rising from 16 million blooms in 1978 to 94 million blooms in 1982 (table 2). Imports of roses increased over 30 percent from 1981 to 1982.

Colombia, Israel, the Netherlands, Guatemala, and the Dominican Republic were the leading suppliers of U.S. imports of fresh cut roses in 1982. These countries ac-

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[5] Determination of February 1980, USITC Pub. 1041.

[6] 46 F.R. 33678, June 30, 1981, terminating investigation.

[7] The major producing States are California, Colorado, Connecticut, Illinois, Indiana, Massachusetts, Michigan, Minnesota, New Jersey, New York, Ohio, Oregon, Pennsylvania, and Washington for hybrid tea and (except Oregon) for sweetheart roses.

counted for 97 percent of the total imports, in terms of quantity, in that year. Colombia increased its share of U.S. imports of roses from 74 percent in 1978 to 80 percent in 1982. Imports from the Netherlands in 1982 were 5,157,000 blooms, an increase from the 1981 figure of 2,831,000 blooms. There were no imports of roses dutiable at the column 2 rate of duty during 1978–82.

Imports of roses during the period June 1 to October 31, 1982, were equivalent to more than one-third of the total U.S. imports during 1982, with Colombia supplying 88 percent during that period. Data gathered in the Commission's Investigation No. TA-201-42 indicate that U.S. imports of roses are heaviest during January–June and October–December and tend to be concentrated in the months of February, May, and December, followed by the months of April and November. All of these months contain major U.S. holidays which create a strong demand for fresh cut roses.

The Netherlands is the world's leading producer of fresh cut roses, and the Dutch government contributes financially to the growth of the industry.[8] The industry is reported to be planning a substantial increase in its penetration of the U.S. market. A dispute as to that government's policies continues within the European Economic Commission and the European Parliament. The United Kingdom continues to support its greenhouse industry in the face of competition from the Netherlands' growers.

The Common External Tariff of the EEC sets forth the following:[9]

Heading No. and description	Rate of duty (percent)	
	Autonomous	Conventional
06.03 Cut flowers and flower buds of a kind suitable for bouquets or for ornamental purposes, fresh, dried, dyed, bleached, impregnated or otherwise prepared:		
A. Fresh:		
I. From 1 June to 31 October	24	24
II. From 1 November to 31 May	20	17
B. Other	20	

The conventional rates of duty apply to imported articles from GATT members or states with which the EEC has concluded MFN agreements. These rates represent concessions granted in trade agreements (conventions). Autonomous rates of duty are imposed where no conventional rates are shown or where the conventional rate is higher than the autonomous rate. The EEC in 1979 granted a concession only as to "off-season" imports, amounting to 3 percent (a reduction to the 17 percent conventional rate of 06.03.A.II.), while the other rates were bound at prior statutory levels. No other fresh flower concessions have been granted since the EEC was formed in 1957.

U.S. EXPORTS

U.S. exports of roses are estimated by the Commission's staff to have decreased from 10 million blooms in 1978 to 9 million blooms in 1982. Canada is believed to be the principal U.S. market. Exports to the EEC are believed to be negligible or nil.

APPARENT U.S. CONSUMPTION

Apparent U.S. consumption of roses increased irregularly from 470 million blooms in 1978 to 529 million blooms in 1982. The share of consumption supplied by imports increased from 3 percent in 1978 to 18 percent in 1982. Data are not separately available for apparent U.S. consumption for the November–May and June–October time periods provided by this legislation.

POTENTIAL ANNUAL GAIN OF REVENUE

If enacted, the legislation would substantially increase the column 1 rate of duty on fresh cut roses. Based on imports in 1982, the total potential gain in customs revenues from these rate increases may amount to about $3 million. However, the

[8] *Congressional Record*, April 29, 1982, S. 4360.
[9] *Id.* at 4362.

higher duty rate would probably reduce the volume of imports and thus would reduce the gain in revenues.

TECHNICAL COMMENTS

It should be noted that the proposed rates of duty on fresh cut roses would be higher than those for other fresh cut flowers, and bouquets, wreaths, sprays, or similar articles made from such flowers or other fresh plant parts (TSUS item 192.21). Foreign suppliers could readily add another flower type, such as a carnation, to a bunch of roses and import the mixture as a bouquet at the rate of 8 percent ad valorem (column 1) or duty-free if it were from an eligible GSP country at a substantial savings from the proposed rates of duty. Thus, the possibility of circumvention of the increased duty is high.

To ease implementation of the provisions, it is suggested that they be made effective on the fifteenth day following enactment of the Act.

GATT COMMENTS

It should be noted that the present level of the rate of duty on roses reflects a concession granted under the General Agreement on Tariffs and Trade. Under the provisions of the GATT, if the United States increases the duty above the agreed level, the United States is required either to give compensatory concessions to the affected contracting parties or be subject to the retaliatory withdrawal by them of corresponding reciprocal benefits to the United States from their concessions under the GATT.

TABLE 1.—FRESH CUT ROSES: U.S. PRODUCTION, EXPORTS OF DOMESTIC MERCHANDISE, IMPORTS FOR CONSUMPTION, AND APPARENT CONSUMPTION, 1978–82

[Quantity in millions of blooms; value in millions of dollars; unit value in cents per bloom]

Year	Production	Exports [1]	Imports [2]	Apparent consumption	Ratio (percent) of imports to consumption
Quantity:					
1978	464	10	16	470	3
1979	492	10	35	517	7
1980	474	9	45	510	9
1981	467	9	72	530	14
1982	[3] 444	9	[4] 94	529	18
Value:					
1978	97	[1]2	[1]3	(5)	(5)
1979	109	[1]2	[1]8	(5)	(5)
1980	117	(6)	(5)	(5)	(5)
1981	124	(6)	(5)	(5)	(5)
1982	124	(6)	(4)	(5)	(5)
Unit value:					
1978	21	[1]23	[1]18	(5)	(5)
1979	22	[1]23	[1]21	(5)	(5)
1980	25	(6)	(5)	(5)	(5)
1981	27	(6)	(6)	(5)	(5)
1982	28	(6)	[4] 20	(5)	(5)

[1] Estimated by the staff of the U.S. International Trade Commission from data submitted in Inv. No. TA–201–42.
[2] Includes some imported roses that are reexported.
[3] Estimated by trade sources.
[4] Compiled from official statistics of the U.S. Department of Commerce.
[5] Not meaningful.
[6] Not available.

Source: Production, based on data from Floricultural Crops published by the U.S. Department of Agriculture, with adjustments to include all 50 States, except as noted. Imports from U.S. Department of Agriculture plant quarantine entry data.

TABLE 2.—FRESH CUT ROSES: U.S. IMPORTS, BY PRINCIPAL SOURCES, 1978–82 [1]

[In thousands of blooms]

Source	1978	1979	1980	1981	1982
Colombia	12,099	27,066	35,532	59,029	75,435
Israel	1,713	5,629	4,755	5,152	5,280
Netherlands	1,656	1,715	1,572	2,831	5,157
All other	979	915	2,679	4,858	8,269
Total	16,447	35,325	44,538	71,870	94,141

[1] Compiled from official statistics of the U.S. Department of Commerce.

Note.—Data include some imported roses that are reexported.

Source: Compiled from U.S. Department of Agriculture plant quarantine entry data, except as noted.

STATEMENT OF DWIGHT HAIGHT, PRESIDENT, ASSOCIATION OF FLORAL IMPORTERS OF FLORIDA

The Association of Floral Importers of Florida (the Association) is a non-profit trade association representing thirty-five U.S. importers of fresh-cut flowers located throughout the state of Florida. The Association speaks on behalf of its membership on such topics as international trade promotion and other pertinent industry issues. The Association strongly opposes enactment of H.R. 1146, a bill which proposes to dramatically increase the present U.S. duty on imports of roses. We believe that H.R. 1146 represents a direct attack upon the historic U.S. free-trade philosophy and enactment would erect trade barriers at the very time when the U.S. Government is encouraging our international trading partners to eliminate unfair and restrictive trade practices. Further, enactment of H.R. 1146 would substantially raise the price of roses to U.S. consumers and would place an unbearable financial burden upon our Florida cut-flower importers.

The United States stands for the time-honored concept of fair and effective international competition. This free and open trading system presents the best of all worlds for consumers. They gain the benefit of competitive pricing, the best selection and the greatest availability of a commodity in a world-wide market. The current international trading system is in a delicate balance because various interest groups, pleading economic hardship aggravated by the depressed economy, are attempting to coerce our government into erecting protectionist barriers in order to placate certain narrow interests. However, particularly during times like these, special care must be taken by the Congress not to submit to this "quick fix" concept—a concept which serves only to impair free trade and ultimately hurts our U.S. consumers.

The United States has always prided itself on being the leader in the trade of agricultural commodities, service industries and high technology products. This leadership is based upon the concept that free trade allows pure competition which in turn benefits all consumers. Sadly, in recent years, the first reaction of many businesses to competition is to ask the government for assistance. A much more productive reaction would be to pause, examine one's own operation, and then ascertain that everything possible is being done to compete effectively. If this self-examination were done before asking for government assistance, all consumers would be better served. Creating an artificial barrier to trade only serves to protect an inefficient industry, for which the domestic consumer ultimately pays.

Specifically, enactment of H.R. 1146 would have a devastating impact upon Florida cut-flower importers and their allied industries. Last year, the Association's member companies imported approximately 64 million roses worth over $13.5 million on which U.S. customs duties of over $1 million were paid. The Association's member companies directly employ approximately 700 people in Florida with related industries employing thousands more who contribute millions of dollars annually to the Florida economy. Enactment of H.R. 1146 would place these U.S. businesses in financial jeopardy and would be disastrous to the Florida economy. One positive step has been taken recently when legislation was passed by Congress creating the industry research and promotion board, Floraboard (P.L. 97-98, Title XVII) whose membership includes both domestic producers and foreign flower importers. Its aim is to increase U.S. consumption of all cut flowers through generic promotion and advertising efforts. The U.S. per capita consumption of cut flowers is much lower than in Western Europe. However, through the cooperative efforts of both U.S. and

foreign producers supporting Floraboard, this consumption level can be dramatically increased to the benefit of all flower growers.

In summary, the Association of Floral Importers of Florida strongly urges this Committee not to report H.R. 1146 because our Florida employees will face unemployment and the bill is contrary to our concept of free trade. Only through fair and effective competition will the U.S. consumer be best served. Erecting artificial tariff barriers runs counter to the U.S. commitment to free trade and ultimately forces the U.S. consumer to pay the costs.

Statement of Container Corp. of America

This statement is made on behalf of Container Corporation of America and its affiliate company Carton de Colombia.

A major producer of paperboard and packaging, Container Corporation of America operates 87 domestic facilities and 58 properties in Latin America and Europe.

CCA's affiliate company in Colombia is the largest manufacturer of paperboard and packaging in Colombia, accounting for over 50 per cent of total industry output. Carton de Colombia has two paper mills, six converting operations and employs over 1,200 people. Our shipping container plants in Bogota, Cali and Medellin together supply around 80 per cent of the corrugated boxes used by the Colombian cut flower industry.

Carton de Colombia also imports significant quantities of linerboard from the United States which is used in the manufacture of shipping containers. These imports from the U.S. reached $9 million last year.

The Colombian cut flower industry, Carton de Colombia's major customer, is the country's third largest export industry. Over $120 million worth of Colombian cut flowers are exported annually, with over 60 per cent of this total going to the U.S. market. Roughly 55,000 unskilled workers are employed directly by the industry, with another 50,000 skilled and semi-skilled employed in related industries such as packaging and transportation. Carton de Colombia's employees on average are at the highest wage level in the country.

Colombia's investment in flower production creates an export market for the U.S. Although Colombia no longer imports all its cuttings from the U.S., production facilities, equipment and supplies such as chemicals and polyfilm are purchased in this country.

BACKGROUND

Before enumerating the reasons why Container Corporation of America believes H.R. 1146, a bill to raise the tariff on cut rose imports, represents unsound public policy, some background on the cut flower industry may be helpful.

Since the late 1970's the demand for fresh cut flowers in the U.S. has soared. Much of this growth has occurred as a result of a trend toward impulse buying rather than making purchases only for special occasions such as weddings and birthdays.

The flower industry, described by Forbes magazine as "almost catatonic" just a few years ago, is boosting its sales by 10 per cent a year by offering its products in supermarkets, elaborate sidewalk kiosks, etc. Indeed, non florist outlets now handle some 45 per cent of goods and services traditionally associated with retail florists.

Banking on the impulse buyer, the Society of American Florists expects that the 1981 sales volume of $5 billion in flowers and potted plants nationally will double by 1985.

The transformation of the cut flower industry into a sophisticated global industry has largely made it possible to satisfy the stepped-up demand. This change has been characterized by the use of aggressive marketing programs, refinements of growing techniques, post-harvest care, pest and disease control, development of more and more new varieties, increased awareness of tastes and trends as well as improved transportation systems. Growers, both domestic and foreign, who have refined their methods and improved their techniques have benefited from the enormous growth in the U.S. market.

While U.S. growers and foreign growers both have witnessed an increase in sales, the market share of foreign cut flowers also has expanded. For instance, in 1981, imported cut roses (hybrid tea and sweetheart) supplied 14.6 per cent of the U.S. market as compared to only 7.3 per cent in 1979. In part, this increased market penetration may be attributed to technological advances which have permitted the foreign grower to provide a consistently higher quality (longer lived) product, more appealing varieties and in greater quantities.

Colombia, for instance, is favored by a stable climate and growing conditions that permit it to produce a fairly consistent quality throughout the year. Colombia has pursued a course of upping the actual grade shipped to the U.S. market so that their "standard" grade falls between standard and fancy, as the terms are used domestically. Assuming good handling in transportation, the retailer seeking this higher quality has a better chance of getting it on a consistent basis than he does from domestic producers. It is this quality which the retailer's "margin" in competing with mass marketers and at a price that he can afford.

PROBLEM

In order to block competition from foreign imports of fresh cut roses, the domestic growers have sought import restrictions in a variety of forums. These avenues have included a section 201 "escape clause" proceeding in 1979–80, countervailing duty petitions and an antidumping petition—none of which have been successful. In the escape clause case, the International Trade Commission ruled unanimously that imports constituted no injury or threat of injury to the domestically grown product.

CCA POSITION

H.R. 1146, a bill to raise the rates of duty on roses imported by 300 per cent, represents unsound policy and should be opposed for several reasons.

1. It would seriously weaken the Colombian cut flower industry and the Colombian economy generally with possibly adverse domestic political repercussions. Cut flowers represent the country's second largest agricultural export. Any erosion of the $120 million industry would only further aggravate the Colombian trade deficit with the U.S. and threaten the jobs of over 100,000 Colombians. In addition, it would harm U.S. exports of production equipment and supplies such as chemicals and polyfilm to the Colombian cut flower industry.

2. It is contrary to our international trade agreements in that it would provide for duties on cut roses above the 8 per cent negotiated in 1979 in the Multilateral Trade Negotiations. Any unilateral action resulting in an increased duty means that the U.S. would owe compensation for removal of this international commitment to countries supplying roses and would be obliged to adjust duties on other products or risk the possibility of retaliatory action against U.S. exports. Yet, Mr. Gilbert Sindelar with the U.S. Department of Agriculture has pointed out in testimony before this committee, that the Administration now does not have the legislative authority to make such compensatory tariff cuts.

3. It is unnecessary since U.S. growers' claims of injury from imports have not been proven to the satisfaction of either the International Trade Commission or the U.S. Department of Commerce. Indeed, statistics developed by domestic growers (report published in August, 1982, Roses Inc. Bulletin) show that between 1977 and 1981, the number of domestic rose growers counted in the USDA Floriculture Crops declined by little more than 6 per cent (from 237 to 222). Of the 95 growers going out of business 80 of them left the industry before 1977, a period when the number of foreign roses entering the U.S. was so insignificant that the figures were not even monitored by domestic growers.

4. It would conflict with a major objective of the Administration's Carribean Basin Initiative, whose centerpiece is "free trade" for Carribean products. Ways and Means Trade Subcommittee Chariman Sam Gibbons has underscored the importance of the Carribean Basin Initiative "because of the dire straits these countries are in. Action by the U.S. toward improving their economies can mean the difference between their survival and non-survival."

5. It would seriously restrict the supply of cut roses in the U.S., thereby undermining the retailer's ability to satisfy customer demand in terms of variety and quality of flowers. In major markets such as Philadelphia and New York, for instance, domestic production is simply inadequate at critical high demand seasons of the year, according to the Florists Transworld Delivery Association. The East Coast of the U.S. is the natural market for the Colombian cut flowers since it is just two hours by air or 900 miles from Colombia. By contrast, California growers are a minimum of six hours and 3,000 miles distant from the East Coast.

In conclusion, Container Corporation of America opposes the imposition of higher tariffs as provided for under H.R. 1146 because they are contrary to the interests of the American consumer and the U.S. floral industry—wholesalers, retailers, shippers, as well as growers. At the same time, they would injure fragile Latin American economies, perhaps promoting political instability in these countries, and interfere with our nation's long range policy in Latin America.

H.R. 1195

To increase temporarily the duty on certain wool that is the product of Argentina or Uruguay.

U.S. TRADE REPRESENTATIVE

This is in response to your request for comments on H.R. 1195, a bill to increase temporarily the duty on certain wool that is the product of Argentina or Uruguay. This bill would raise the duty on certain wool from the current rate of $.10 per pound to 10 percent ad valorem for one year.

This Office is strongly opposed to this bill. The U.S. tariff on wool, like most U.S. tariffs, is bound under the General Agreement on Tariffs and Trade (GATT). The United States has agreed not to increase these tariffs above the current level in exchange for similar commitments by our trading partners on their tariffs. Enactment of this legislation would likely subject the United States to claims for compensation in the form of reductions of U.S. tariffs on other products or retaliation in the form of increased tariffs applied to U.S. exports.

There are administrative remedies available under U.S. trade laws to aid domestic producers who are faced with unfair or injurious competition from imports. We believe that duty increases should be considered only in the context of the operation of statutory import relief programs. Duty increases outside of these mechanisms would be precisely the type of protectionist action which the United States and its trade partners agreed to avoid during the GATT Ministerial meeting in November.

In addition, we are committed under the rules of the GATT to apply bound rates on a non-discriminatory basis to all Contracting Parties to the GATT. By specifying only Argentina and Uruguay, this bill violates that Most-Favored-Nation principle.

The Office of Management and Budget advises that presentation of these comments is consistent with the Administration's program.

DEPARTMENT OF THE TREASURY

This is in response to a request from your Committee for the views of this Department on H.R. 1195, a bill entitled, "To increase temporarily the duty on certain wool that is the product of Argentina or Uruguay."

The Department opposes H.R. 1195 for the following reasons: First, there are administrative procedures for countering unfair trading practices. These procedures should not be circumvented. Second, the proposed bill is inconsistent with the most favored nation provision of the General Agreement on Tariffs and Trade (GATT), and thus violates United States international obligations. It would also raise duties above negotiated rates necessitating payment of tariff compensation to the affected trading partners.

Aside from the general opposition expressed above, the Department has the following specific comments.

As presently drafted, the proposed legislation would create a duty equal to "10 percent of the f.o.b. value of the article at the port of export". A tariff provision written in this manner is contrary to section 402 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979, inconsistent with the Tariff Schedules of the United States, and perhaps contrary to section 503 of the Tariff Act of 1930 as well.

At present, duties on wool have been within either specific rate or free. However, if an f.o.b. or ad valorem rate is utilized, as proposed in the bill, Customs import specialists would have considerable extra work to determine a precise dutiable value. If the bill were to be enacted, we would prefer a specific rate rather than an ad valorem duty. This would reduce the administrative burden of Customs import specialists. However, if the bill cannot be amended to provide for a specific rate of duty, the Department recommends changing the language to "10 percent ad valorem".

The administration of our customs laws and regulations is facilitated when the United States Customs Service has an opportunity to notify its field offices and other interested parties of a change in tariff treatment before it takes effect. Therefore, the Department recommends that the bill be modified to make the change effective at least fifteen days, but preferably thirty days, after its enactment.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

DEPARTMENT OF AGRICULTURE

This is in response to your request for this Department's views and comments on H.R. 1195, a bill "To increase temporarily the duty on certain wool that is the product of Argentina or Uruguay."

This Department is opposed to the bill.

H.R. 1195 would amend subpart A of part 1 of the Appendix to the Tariff Schedules of the United States by imposing a ten percent duty on wool, finer than 44s, in the grease or washed or scoured, if it is a product of Argentina or Uruguay. The tariff would apply to those items entered, or withdrawn from warehouse for consumption, on or after the date the bill is enacted.

This Department believes this bill would violate our GATT commitment which requires that all nations who are eligible for Most Favored Nation (MFN) status be subjected to the same tariff treatment. If the duty on a particular type of wool is to be raised it must be raised for all MFN countries. We are aware of the U.S. wool industry's concern over the export rebate programs in Argentina and Uruguay, but we believe that concern should be addressed through existing U.S. legislation.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 1195, if enacted, would increase temporarily the rate of duty applicable to importations of certain wools from Argentina and Uruguay by 10% ad valorem. The duty increase would be in effect for a period of one year beginning on the date of enactment of the legislation. The subject wools, all graded finer than 44s, are provided for in items 306.31, 306.32, and 306.33 of the Tariff Schedules of the United States (TSUS). In addition, the legislation would amend item 905.11 in the Appendix to the TSUS in order to limit the scope of the current duty suspension as to wool not finer than 46s, provided for in TSUS items 306.30 through 306.34; the change would exclude from the suspension the wool subject to the additional duty.

On introducing this legislation, the sponsor stated that wool producers and exporters in Argentina and Uruguay are able to sell wool cheaply in the United States because of the heavy government subsidies paid to them.[1] He further indicated that the legislation would allow the U.S. Government to investigate the allegation of subsidies while temporarily bringing balance back to the U.S. wool market. Subsequent to the introduction of this legislation, the U.S. Department of Commerce on April 4, 1983, found in a final determination under section 303 of the Tariff Act of 1930 [2] (19 U.S.C. 1303) that bounties or grants were being paid to Argentine producers or exporters as alleged in a September 1982 petition of the National Wool Growers Association (48 F.R. 14423). The Department determined that the net bounty or grant is 5.58 percent ad valorem on shipments made prior to January 1, 1983, and 4.65 percent ad valorem on shipments made after January 1, 1983. U.S. producers have not filed petitions concerning the question of Government bounties or grants on wool from Uruguay, and thus the Department has not formally investigated the matter.

DESCRIPTION AND USES

The subject wools are of the medium and fine grades which are produced in large volume in the United States. The legislation identifies these wools as being finer

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[1] Congressional Record of February 2, 1983, p. E269.

[2] Argentina is not a "country under the agreement" under the terms of section 701(b) of the Tariff Act of 1930, as amended, and is therefore not entitled to an injury determination by the Commission.

than those of official grade standard 44s, an industry measurement of diameter of the wool or hair. The subject wools are most popular for use in apparel products such as sweaters, skirts, suits, and coats. Coarse wools, which are not covered by the proposed legislation, are used primarily in the manufacture of carpets and rugs and coarse blankets.

The duty increase would affect almost all entries of medium and finer wools from Argentina and Uruguay.[3] The legislation covers wools in the grease or washed (provided for in TSUS items 306.31 (not sorted) and 306.32 (sorted) and scoured wool (provided for in TSUS item 306.33). The proposed legislation does not cover wools on the skin or in the carbonized condition; trade in these wools has been nil or negligible.

TARIFF TREATMENT

The column 1 [4] or most-favored-nation rates of duty for wools finer than 44s provided for in TSUS items 306.31, 306.32, and 306.33, have been reduced as a result of concessions granted in the Tokyo round of the Multilateral Trade Negotiations (MTN) (table 1) and have already been reduced to the final staged rate as of January, 1982. The staged reductions were from an initial duty rate of 25.5 cents per clean pound to the present 10 cents per clean pound under item 306.31, and from 26.25 cents per clean pound to 10 cents per clean pound under item 306.32, and from 27.75 cents per clean pound to 11 cents per clean pound under item 306.33.

Temporary duty-free treatment was extended to wools grading not finer than 46s, together with other coarse wools, under Public Law 95–162, effective November 8, 1977 through June 30, 1980. The United States subsequently granted a concession on these wools in the Tokyo Round of the MTN by extending the period of the duty suspension to June 30, 1985.

The column 2 rates of duty [5] are 34 cents per clean pound, 35 cents per clean pound, and 37 cents per clean pound, respectively, under these items. The subject wools are not eligible for duty-free entry under the Generalized System of Preferences (GSP) [6], and no preferential rates of duty for least developed developing countries (LDDC's) are provided.[7]

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[3] As defined in headnote 1 of part 1C, schedule 3 of the TSUS,

(e) wool or hair *"in the grease"* is wool or hair in its natural condition as separated from the animal or skin, whether or not cleaned by shaking, willowing, or burr-picking, but not otherwise cleaned;

(f) *"washed"* wool or hair is wool or hair, not on the skin that has been washed, with water only, while on the animal's back or on the skin, whether or not cleaned by shaking, willowing, or burr-picking, but not otherwise cleaned;

(g) *"scoured"* wool or hair is wool or hair, whether or not on the skin, (except wool or hair in the grease or washed) that has been cleaned by any process other than shaking, willowing, burr-picking, washing with water only, or carbonizing;

(h) *"carbonized"* wool or hair is wool or hair whether or not on the skin that has been cleaned by carbonizing in lieu of, or in addition to, any other cleaning process, whether or not neutralized or neutralized and dusted; and

(i) *"sorted"* wool or hair is wool or hair separated from each individual fleece according to length, soundness, elasticity, fineness, color, or other properties, but does not include a skirted fleece unless the back has been removed, and does not include skirtings.

[4] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

[5] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[6] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

[7] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column numbered 1 applies.

PREVIOUS INVESTIGATIONS

In its investigations No. 303-TA-4 and 303-TA-5, the Commission determined unanimously that a U.S. industry was not being injured, was not likely to be injured, and was not prevented from being established by imports of duty-free yarns of wool from Uruguay and Brazil, respectively.[8] Such yarns were classified under TSUS item 307.60 and thus are not of types covered by the proposed legislation. The Department of the Treasury had determined that bounties or grants were being received from those governments. The Commission determined that imports of the yarns were negligible or nil in the years under review.

STRUCTURE OF THE DOMESTIC INDUSTRY

Wool was produced on approximately 125,000 farms and ranches in the United States during 1981.[9] Texas is the leading producing state, accounting for 19 percent of total U.S. output during 1981. California, Colorado, Idaho, Iowa, Montana, New Mexico, Oregon, South Dakota, Utah, and Wyoming are other major wool producing states. Sheep operations vary in size from small flocks of about 20 sheep to large operations of two or three thousand head. However, no single producer accounts for a significant share of total U.S. production.

DOMESTIC PRODUCTION

U.S. production of wools grading finer than 44s rose from about 52 million pounds, clean content, in 1978 to nearly 56 million pounds in 1981; but it declined to about 53 million pounds in 1982 (table 2). Changes in the value of production, however, have been more pronounced, as prices rose during 1978-81 and then dropped sharply in 1982. The value of domestic production of these wools moved up from $77 million in 1978 to $105 million in 1981. The value of production was $72 million in 1982.

U.S. IMPORTS

Total imports of wools grading finer than 44s, of the types covered by the legislation, declined slightly to about 24 million pounds in 1979, then increased to a 5-year high of 57 million pounds in 1981. Imports declined to 48 million pounds in 1982. Similarly, the value of imports reached a high in 1981 of $120 million but declined to $103 million in 1982. The average unit value of imports increased steadily during 1978-82.

Imported wools accounted for 38 percent of total domestic consumption in 1978. Their share of consumption declined to 32 percent in 1979 but increased to 51 percent in 1981. Imports constituted a 48 percent share of consumption in 1982.

Imports of the subject wools from Argentine and Uruguay, valued at about $5 million in 1978, increased abruptly in 1980 to $11 million (table 3). Such imports rose further to $27 million in 1981 but declined to $15 million in 1982. As a percentage of total imports, combined Argentine and Uruguayan wool imports amounted to 10 percent in 1978, increased to 25 percent of total imports in 1981, and then declined to 15 percent of total imports in 1982.

U.S. EXPORTS

U.S. exports of such wools have generally been relatively small. However, exports increased from 0.3 million pounds annually during 1978-81 to 1.4 million pounds in 1982.

APPARENT U.S. CONSUMPTION

U.S. consumption of wools of grades finer than 44s declined from 83 million pounds in 1978 to 77 million pounds in 1979; it then increased to 112 million pounds in 1981. Consumption declined further to 100 million pounds in 1982.

POTENTIAL ANNUAL GAIN OF REVENUE

The legislation would have the effect of increasing customs revenues. Based on the level and value of imports from Argentina and Uruguay in 1982, the gain in

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[8] USITC Pub. 940; February 1979. The yarns were dyed and cut into uniform pieces up to 3 inches in length for use in making latch-hook rugs.

[9] Source: Official Department of Agriculture and Department of Commerce publications.

revenue would be $1.5 million. However, the quantity of imports may fall as a result of the duty increase.

TECHNICAL COMMENTS

To clarify the article description in the proposed item 901.25, it is suggested that "(whether or not sorted)" be inserted after "washed". This would make the scope of the provision clearer in light of its coverage of three TSUS items.

It is suggested that the additional duty be amended to read "10% ad valorem". The Customs Service generally utilizes the transaction value, as provided in section 402 of the Tariff Act of 1930, as amended in 1979 (19 U.S.C. 1401a), as the basis for appraising imported merchandise. This method of appraisement provides for specified additions to the price actually paid or payable for the merchandise and, as a result of the Agreement on Implementation of Article VII of the General Agreement on Trade and Tariffs (GATT) (the Customs Valuation Agreement), is the primary basis for customs value. In most cases the resulting value approximates or equals the f.o.b. value of the goods at the port of export.

In order to simplify the administration of the new item, it is suggested that the effective period be modified to read "On or before 12/31/84", since the legislation is not likely to be enacted until late in 1983.

Section 2 as drafted poses problems in the preparation and interpretation of the TSUS. It is suggested that the section be amended as follows:

Sec. 2. Item 905.11 in subpart B of part 1 of the Appendix to the Tariff Schedules of the United States is amended by inserting after "306.34" the words ", except wool finer than 44s subject to additional duties under item 901.25 during the period of its effectiveness".

This change would avoid any impact on wool imported from other countries for which free entry is claimed under item 905.11.

It is also suggested that the Act be made effective on either the fifteenth day following enactment or, if signed into law late in 1983, on January 1, 1984.

GATT COMMENTS

It should be noted that a duty increase as to imports from two countries would consitute a violation of most-favored-nation treatment under Article I of the GATT and may give rise to claims for compensation under Articles II and XXIII.

In addition, the imposition of the proposed duty during the period of suspension of column 1 duties on wool finer than 44s and not finer than 46s could effectively exceed the rates bound under the GATT. That is, the proposed 10 percent ad valorem rate could be higher than the specific rates applicable to such wool (reported under TSUSA items 306.3132, 306.3233, and 306.3334) converted to their ad valorem equivalents. The following table, based on 1982 imports and the duty rates which would have applied absent the suspension, indicates how this violation could occur:

WOOL FINER THAN 44s AND NOT FINER THAN 46s

TSUSA No.	Imports [2]	Value	Average unit value	Bound duty rate [1]	Ad valorem equivalent [3]
306.3132	3,179,702	$4,196,070	$1.32	10	7.6
306.3233	83,772	73,885	0.88	10	11.3
306.3334	4,685,100	6,970,123	1.49	11	6.7

[1] Cents per clean pound. Rates suspended through June 30, 1985.
[2] Clean pounds.
[3] Percent.

Source: Official Department of Commerce statistics.

TABLE 1.—CERTAIN WOOLS: U.S. RATES OF DUTY, [1] BY TSUS ITEMS

[Cents per clean pound]

TSUS No.	Description	Pre-MTN col. 1 rate of duty [2]	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1—			Col. 2 rate of duty
			1980	1981	1982	
	Wools, finer than 44s:					
	In the grease or washed:					
306.31	Not sorted	25.5	20	15	10	34
306.32	Sorted	26.25	20	15	10	35
306.33	Scoured	27.75	22	16.5	11	37

[1] Wools not finer than 46s are duty free under temporary suspension until June 30, 1985 (TSUS item 905.11).
[2] Rate effective prior to Jan. 1, 1980.

TABLE 2.—WOOL, FINER THAN 44s: U.S. PRODUCTION, EXPORTS OF DOMESTIC MERCHANDISE, IMPORTS FOR CONSUMPTION, AND APPARENT CONSUMPTION, 1978–82

[Quantity in millions of pounds, clean content; value in millions of dollars; unit value per pound]

Year	Production	Exports	Imports	Apparent consumption	Ratio (percent) of imports to consumption
Quantity:					
1978	51.9	.4	31.2	82.7	38
1979	53.1	.3	24.5	77.3	32
1980	53.4	.3	36.7	89.8	41
1981	55.7	.3	57.1	112.5	51
1982	53.3	1.4	48.1	100.0	48
Value:					
1978	77.0	.8	47.9	124.1	39
1979	91.2	.7	41.8	132.3	32
1980	93.5	.5	71.1	164.1	43
1981	104.6	.6	120.4	224.4	54
1982	72.4	1.2	103.7	174.9	59
Unit value:					
1978	$1.48	$1.97	$1.54	$1.50	
1979	1.72	2.23	1.71	1.71	
1980	1.75	1.74	1.94	1.83	
1981	1.88	2.11	2.11	1.99	
1982	1.36	.92	2.16	1.75	

Source: Data on production compiled from official statistics of the U.S. Department of Agriculture; data on exports and imports compiled from official statistics of the U.S. Department of Commerce.

TABLE 3.—WOOL, FINER THAN 44s, IN THE GREASE, WASHED, OR SCOURED [1]: U.S. IMPORTS FOR CONSUMPTION, BY COUNTRY OF ORIGIN, 1978–82

[Value in thousands of dollars; distribution in percent]

Year	Country of origin		Total
	Argentina and Uruguay	Other countries	
Value:			
1978	4,910	42,908	47,818
1979	4,356	36,706	41,062
1980	11,273	59,303	70,576
1981	27,402	91,807	119,209
1982	15,200	87,430	102,630

TABLE 3.—WOOL, FINER THAN 44s, IN THE GREASE, WASHED, OR SCOURED [1]: U.S. IMPORTS FOR CONSUMPTION, BY COUNTRY OF ORIGIN, 1978–82—Continued

[Value in thousands of dollars; distribution in percent]

Year	Country of origin		Total
	Argentina and Uruguay	Other countries	
Distribution:			
1978	10	90	100
1979	11	89	100
1980	16	84	100
1981	23	77	100
1982	15	85	100

[1] Includes entries of TSUS items 306.31, 306.32, and 306.33.

Source: Compiled from official statistics of the U.S. Department of Commerce.

H.R. 1217

To provide relief from honey imports by increasing the duty thereon.

DEPARTMENT OF AGRICULTURE

This is in response to your request for the Department of Agriculture views on H.R. 1217, a bill "To provide relief from honey imports by increasing the duty thereon."

The Department of Agriculture opposes the enactment of this bill.

H.R. 1217 would amend the Tariff Schedules of the United States by raising the Column one duty rate for honey from one to ten cents and the Column two duty rate from three to twenty cents.

Enactment of the bill could result in international repercussions because the United States has granted a concession (i.e., a commitment not to raise the duty) on honey in the General Agreement on Tariffs and Trade. Among the main foreign suppliers in recent years are Canada (to whom the United States in 1947 first granted the concession), Argentina, the People's Republic of China, and Mexico. If this bill becomes law, the United States would be obligated to pay compensation by cutting import duties on other products having equivalent trade value. No legislative authority currently exists for the U.S. Government to make such duty reductions. Therefore, the foreign governments could only withdraw concessions they have made on U.S. exports.

We appreciate the concern over honey imports which prompts this proposal. Nevertheless, we do not believe in an increase in the import duty would be appropriate.

Enactment of H.R. 1217 would involve no additional costs for the U.S. Government.

The Office of Management and Budget advises that it has no objection to the presentation of this report from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

The purpose of H.R. 1217 is to increase the rates of duty on imports of honey provided for under Tariff Schedules of the United States (TSUS) item number 155.70. The bill would increase the column 1 rate of duty [1] from 1 cent per pound to 10 cents per pound and the column 2 rate [2] from 3 cents per pound to 20 cents per pound, effective on the date of enactment.

DESCRIPTION AND USES

Honey is a sweet, viscous material produced by bees from the nectar of flowers. It varies in color, flavor, and chemical composition depending primarily upon the floral source. For example, honey produced from clover, cotton, or sage is light colored and mild flavored, while that produced from buckwheat, dandelions, or most wild flowers is amber or dark colored and strong flavored.

Nearly all commercial honey is extracted from the comb, although small quantities are consumed in the form of comb honey or chunk honey. These are specialty products known as granulated or creamed honeys, which are made by encouraging the development of fine crystallized dextrose in honey. Recently there has been some marketing of products consisting of honey blended with corn syrup.

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[1] Column 1 rates of duty are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, these rates would not apply to products of developing countries where such articles are eligible for preferential tariff treatment provided under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

[2] Column 2 rates of duty apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

Honey is graded according to color and floral source, the lighter colors usually being the most valuable. Table use accounts for most of the honey consumed in the United States. The light, mild honey is generally preferred for table use, but there is significant table consumption of dark, strong-flavored honey, such as buckwheat honey. Most honey for industrial use in baked goods and other prepared foods is dark honey. Exotic honeys for table use, obtained form unusual domestic and foreign floral sources, (e.g., sour gum, thyme, and rosemary), command premium prices.

Most U.S. honey has been heat treated to retard granulation, prevent yeast fermentation, and facilitate filtering. Most foreing honey has not been heat treated because many foreign markets prefer unheated honey. The heat treatment affects the natural yeast and enzyme content of honey and, therefore, affects the flavor. However, honey that is not heat treated is more subject to fermentation or spoilage.

TARIFF TREATMENT

Imported honey is classified for tariff purposes under TSUS item 155.70. The column 1 rate of duty applicable to such imported honey is 1 cent per pound, and the column 2 rate is 3 cents per pound. The column 1 rate reflects a concession granted by the United States in the Geneva Protocol to the General Agreement on Tariffs and Trade (1947), effective January 1, 1948. No concession was made on this item in the Tokyo round of Multilateral Trade Negotiations. The ad valorem equivalent of the column 1 rate of duty in 1978 was 2.8 percent; in 1982 it was 2.5 percent.[3] Honey imported under item 155.70 is not currently eligible for duty-free treatment under the Generalized System of Preferences (GSP).[4]

STRUCTURE OF DOMESTIC INDUSTRY

Producers.—It is estimated that in 1982 honey was produced by about 1,500 professional beekeepers (with 300 or more colonies each). These beekeepers are believed to account for about 60 percent of U.S. honey production and for about half the total number of colonies. They can be divided into two groups, migratory and nonmigratory producers. Some migratory producers relocated their bees as many as 30 times a year (by several miles or several thousand miles) in order to provide pollination services and/or to maximize honey production by providing their bees with sources of nectar during more months of the year. They frequently collect fees for the pollination services of their bees, although for most beekeepers the value of honey and beeswax produced far exceeds fees received for pollination services.[5] Migratory beekeepers who move their colonies twice a year generally relocate colonies in the fall of the year from the northern United States to the Southeast or Southwest.

The nonmigratory honey producers, as a group, generally do not move their colonies over any significant distances, if at all. The colonies are normally overwintered where they were located during the summer.

Commercial honey production takes place throughout the United States. In 1982, Florida and North Dakota were the major producing States and, together, accounted for about a quarter of total commercial production. Other principal producing States include Texas, Montana, and South Dakota.

The remaining honey extracted each year in the United States is produced by about 200,000 active beekeeping hobbyists (with less than 25 colonies each) and

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[3] TSUS item 155.70 applies only to pure honey. Honey mixed with flavorings, milk products, and so forth is classified as an edible preparation in TSUS item 183.05 and is dutiable at 10 percent ad valorem.

Artificial honey and honey blended with corn syrup as sugar syrups are classified in TSUS item 155.75 as sirups, flavored or unflavored, consisting of blends of any of the products described in part 10A of schedule 1 of the TSUS. Such products are subject to a duty of 10.5 percent ad valorem for imports entered from column 1 countries, 6 percent ad valorem for imports from LDDC countries, and 20 percent ad valorem for imports from column 2 countries. This item is subject to an annual staged rate reduction as a result of the Tokyo round of the Multilateral Trade Negotiations. The final reduced rate will be 6 percent ad valorem, effective January 1, 1987.

[4] The GSP, enacted as title V of the Trade Act of 1974, provides duty-free treatment for specified eligible articles imported directly from designatd beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985.

[5] Some beekeepers obtain a significant portion of their income from pollination services. Certain large commercial beekeepers in the Pacific Coast States have derived as much as a third of their income from pollination services. The amount of pollination fees paid is usually inversely proportional to the value of honey produced, since little honey is produced from some crops requiring pollination service.

about 10,000 sideliner beekeepers (25 to 299 colonies). Sideliners and hobbyists together account for about half the total number of colonies and about 40 percent of U.S. honey production. Hobbyist beekeepers, particularly those with only a few colonies, usually do not deal in commercial honey markets, since most of their production is for home use. Sideliner beekeepers usually sell the majority of their honey, but do not depend on honey as their sole source of income.

The U.S. producer of honey has a choice of methods in disposing of his honey crop. He may sell his entire crop in bulk containers to a packer or dealer or he may pack a portion or his entire crop in small containers and sell it directly to retail stores, to the consumer, or to both.

Processors.—There are many firms which process honey in the United States. It is estimated that a dozen large firms account for over three-fourths of the honey moving into U.S. wholesale and industrial outlets. The remainder of the honey processed in the United States and sold through wholesale and industrial outlets is believed to be handled by fewer than 50 firms. In addition, there is an unknown number of firms processing honey, mostly their own production, which never enters the wholesale or industrial market but is instead sold at roadside stands or through direct sales to retail outlets. Rarely does a processor handle anything except honey. The processing can easily be spread out over the year owing to the storability of honey, thus allowing for year-round utilization of the processing plant.

Importers.—U.S. importers of honey consist mainly of processors, particularly the large ones, and firms that import for them. It is estimated that a dozen domestic concerns import fairly large quantities of honey; an unknown number of smaller concerns also import honey.

Suppliers.—Processed honey is generally marketed by three types of suppliers: Producer-packers, cooperative marketing organizations, and bottlers.

Producer-packers are those honey producers who bottle and sell part or all of their honey crop. An estimated 40 percent of the honey produced in the United States is marketed this way.

Cooperative marketing organizations receive the member producer's crop and process, pack, and distribute it under the cooperative label, or they may pool and market the members' production in bulk containers. It is believed that some of these cooperatives buy honey from nonmembers and importers if supples from members are not adequate.

The bottlers are generally large, well-organized firms. They have automatic labeling, filling, and capping equipment. Their honey is distributed and sold under their advertised brands, usually in a limited area. These processors may also provide private-label packing for retail chains. They may buy domestic, as well as imported honey.

Industrial users.—Industrial users generally use honey that does not measure up to table quality in color or flavor, although some demand table qualities and grades. Most of this honey is believed to be purchased in bulk from processors, although some is purchased directly from producers and importers. The principal industrial users are in the baking, confectionery, and tobacco industries and the restaurant trade.

DOMESTIC PRODUCTION

During 1978–82, U.S. production of honey ranged from a low of 186 million pounds in 1981 to a high of 239 million pounds in 1979; it averaged 215 million pounds for the period (table 1). On an average basis, U.S. honey production has been fairly stable since the early 1960's, amounting to 220 million pounds annually during 1963–74, or about 2 percent above the average for 1978–82. However, significant year-to-year variations in honey production occur, due in part to such factors as weather conditions, pesticide losses, availability of nectar sources, and changes in cropping practices.

U.S. IMPORTS

U.S. imports of honey have increased irregularly in recent years. Imports during 1978–82 averaged 67 million pounds annually, or 59 percent more than average imports during the preceding 5-year period. Imports in 1982 amounted to a record-high 92.0 million pounds, valued at $37.2 million (table 2). Mexico, Canada, Argentina, and China have been the principal sources of imports in recent yars; during 1978–82 they supplied 84 percent of the total value of honey imported into the United States, all of which was dutiable at the column 1 rate. Imports dutiable at the column 2 rate of duty have been small in recent years. In 1982, such imports amounted to 33,000 pounds, valued at $18,000, and were entirely from the Soviet Union.

U.S. EXPORTS

U.S. exports of honey averaged 8.6 million pounds annually during 1978–82, ranging from 8.0 million to 9.8 million pounds (table 3). U.S. honey exports in 1982 were valued at $6.4 million. Saudi Arabia, West Germany, and the Netherlands have been the principal markets in recent years.

APPARENT U.S. CONSUMPTION

Apparent U.S. consumption of honey during 1978–82 ranged from 238 million pounds to 283 million pounds and averaged 264 million pounds, or 13 percent larger than that in the preceding 5-year period. The share of consumption supplied by imports increased from 20 percent in 1978 to 33 percent in 1982. Per capita consumption of honey in the United States averaged 1.1 pounds annually in recent years.

POTENTIAL ANNUAL GAIN OF REVENUE

This legislation would increase the specific rates of duty on honey. The proposed increases involve both the column 1 and column 2 rates of duty; based on the quantity of imports entered for consumption in 1982 and the proposed rates in this legislation, the total potential gain in revenues from these rate increases could amount to about $8 million annually. Virtually all of the revenue increase would be accounted for by the proposed column 1 rate of duty increase. The ad valorem equivalent of the proposed column 1 rate would be about 25 percent (based on 1982 imports) instead of 2.5 percent. However, the rate increase would be likely to reduce the volume of imports.

TECHNICAL COMMENTS

One problem with the proposed duty increase is the possibility that it could be circumvented. The ad valorem equivalents of the proposed rates of duty on honey are higher than those provided for on blended honey (item 155.75). Foreign suppliers could readily mix another ingredient, such as corn syrup, with honey and import the mixture as blended honey at the rate of 10.5 percent ad valorem (column 1) at a substantial duty savings from the 25 percent as valorem equivalent of the proposed rate. The 10.5 percent ad valorem rate for imports under item 155.75 is being reduced under the Tokyo round of Multilateral Trade Negotiations in annual stages to 6 percent, the latter effective January 1, 1987. The 6 percent rate currently applies to products from LDDC suppliers.[6] The staged reductions make such blending more probable as the rate differential increases.

It is suggested that "10" be deleted on line 3 of page 1 of the bill and "10A" be inserted in lieu thereof to refer to the appropriate subpart. Finally, the comma on line 1 of page 2 should be deleted and one inserted after "consumption".

GATT CONSIDERATIONS

Since the United States bound the duty rate on honey in 1948, following accession to the Geneva Protocol, notification would be required if the duty is to be increased, negotiations might prove necessary, and claims of a GATT violation could be filed. As a result, it may be necessary to pay compensation.

It is noted, however, that honey is subject to price support under a program of the U.S. Department of Agriculture. If imports are found to be interfering with the price support program under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), import fees or quotas could be imposed without risking a violation of the GATT since a special GATT waiver exists for actions taken under section 22.

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[6] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items which are the products of least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for an item, the rate of duty provided in the column numbered 1 applies.

TABLE 1.—HONEY: U.S. PRODUCTION, EXPORTS OF DOMESTIC MERCHANDISE, IMPORTS FOR CONSUMPTION, STOCKS, AND APPARENT CONSUMPTION, 1978–82

[Quantity in millions of pounds; value in millions of dollars; unit value per pound]

Year	Production	Exports	Imports	Stocks[1]	Apparent consumption	Ratio (percent) of imports to consumption
Quantity:						
1978	231.5	8.0	56.0	32.2	277.3	20
1979	238.7	8.8	58.6	38.0	282.7	21
1980	199.8	8.5	49.0	40.5	237.8	21
1981	185.9	9.2	77.3	48.6	245.9	31
1982	[2]221.0	8.5	92.0	78.1	[2]275.0	33
Value:						
1978	126.5	5.4	19.3	([3])		
1979	141.5	6.3	22.8	([3])		
1980	122.8	6.6	21.1	([3])		
1981	118.6	7.2	32.2	([3])		
1982	[2] 139.7	6.4	37.2	([3])		
Unit value:						
1978	$0.55	$0.67	$0.35	([3])		
1979	.59	.72	.39	([3])		
1980	.62	.77	.43	([3])		
1981	.63	.78	.42	([3])		
1982	[2].63	.75	.40	([3])		

[1] Producers stocks on hand on Dec. 15 and held under the U.S. Department of Agriculture (USDA) loan program. These stocks do not include honey owned outright by USDA which on Dec. 15, 1982 amounted to 38.7 million pounds.
[2] Estimated.
[3] Not available.

Note.—Unit values are calculated from unrounded data.

Source: Production and stocks compiled from official statistics of the U.S. Department of Agriculture, except as noted; imports and exports compiled from official statistics of the U.S. Department of Commerce.

TABLE 2.—HONEY: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1978–82

[Quantity in thousands of pounds; value in thousands of dollars; unit value per pound]

Source	1978	1979	1980	1981	1982
Quantity:					
Mexico	18,347	20,330	8,425	24,929	27,621
Canada	8,758	9,512	17,392	11,167	14,554
Argentina	15,392	881	1,373	12,193	16,520
China	663	18,038	17,459	19,039	17,525
Honduras	361	553	131	694	1,454
All other	12,172	9,264	4,266	9,295	14,509
Total	55,963	58,578	49,046	77,317	91,964
Value:					
Mexico	5,272	6,905	2,755	9,331	9,491
Canada	4,018	4,905	9,031	6,017	7,778
Argentina	5,398	390	568	5,099	6,932
China	237	6,534	6,664	7,366	6,876
Honduras	132	224	51	258	641
All other	4,269	3,810	2,015	4,100	5,610
Total	19,325	22,768	21,084	32,171	37,241
Unit value:					
Mexico	$0.29	$0.34	$0.33	$0.37	$0.34
Canada	.46	.52	.52	.54	.53
Argentina	.35	.44	.41	.42	.42
China	.36	.36	.38	.39	.39
Honduras	.37	.41	.39	.37	.44
All other	.35	.41	.36	.44	.39

TABLE 2.—HONEY: U.S. IMPORTS FOR CONSUMPTION, BY PRINCIPAL SOURCES, 1978–82—Continued

[Quantity in thousands of pounds; value in thousands of dollars; unit value per pound]

Source	1978	1979	1980	1981	1982
Average	.35	.39	.43	.42	.40

Source: Compiled from official statistics of the U.S. Department of Commerce.

TABLE 3.—HONEY: U.S. EXPORTS OF DOMESTIC MERCHANDISE, BY PRINCIPAL MARKETS, 1978–82

[Quantity in thousands of pounds; value in thousands of dollars; unit value per pound]

Market	1978	1979	1980	1981	1982
Quantity:					
Saudi Arabia	1,370	1,472	2,065	1,535	1,502
West Germany	1,781	1,560	1,787	2,089	2,068
Netherlands	1,353	1,629	988	1,373	1,272
Japan	670	594	491	509	985
Canada	462	354	456	387	370
United Arab Emirates	79	180	290	399	298
All other	2,330	3,052	2,471	2,908	2,040
Total	8,045	8,841	8,548	9,200	8,535
Value:					
Saudi Arabia	1,064	1,288	1,922	1,567	1,431
West Germany	986	1,007	1,216	1,340	1,257
Netherlands	797	1,022	721	908	842
Japan	465	457	386	420	699
Canada	203	228	239	273	262
United Arab Emirates	66	111	219	378	231
All other	1,790	2,211	1,908	2,267	1,639
Total	5,371	6,324	6,611	7,153	6,361
Unit value:					
Saudi Arabia	$0.78	$0.88	$0.93	$1.02	$0.95
West Germany	.55	.65	.68	.64	61
Netherlands	.59	.63	.73	.66	.66
Japan	.69	.77	.79	.83	.71
Canada	.44	.64	.52	.71	.71
United Arab Emirates	.84	.62	.76	.95	.78
All other	.77	.72	.77	.78	.80
Average	.67	.72	.77	.78	.75

Source: Compiled from official statistics of the U.S. Department of Commerce.

NORTHBROOK, ILL., *May 4, 1983.*

JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR MR. SALMON: I understand the House Ways and Means Committee has scheduled hearings on tariff legislation, which includes a bill filed by Rep. Richard Shelby (AL) to increase tariffs on honey from one cent to ten cents a pound.

This increase would be of great benefit to the American Bee Keepers and also to the American Honey Industry as a whole. The passing of this legislation would help the domestic Bee Keepers compete more effectively with the foreign Bee Keepers.

The price of honey has not kept pace with inflation in the past five to ten years, due largely to the importation of cheap imported honey. The projected raise in the

tariff on imported honey would assure America Bee Keepers a better means to compete effectively with their foreign counterparts.

Very truly yours,

ROBERT ADAMS.

STATEMENT OF FRANK A. ROBINSON, SECRETARY-TREASURER, THE AMERICAN BEEKEEPING FEDERATION, INC.

As Secretary of the American Beekeeping Federation, Inc., a national organization with members from every state representing all segments of the beekeeping-honey producing industry, I offer the following comments relative to the bill filed by Rep. Richard Shelby (AL) to increase the duty on honey imported into the United States (H.R. 1217).

According to estimates provided by the U.S. Department of Agriculture, honey bees, through their pollination activities, are involved in the production of approximately ⅓ of our total food production! The dollar value of these crops has been estimated to be between 10–15 billion dollars annually. With this close relationship to U.S. agriculture, it is easy to see how much the U.S. consumer and taxpayer is benefitted by having a large, viable beekeeping industry in this country. In spite of the contribution of their bees as pollinators of agricultural crops, most commercial beekeepers depend on the sale of honey for their livelihood. Without a suitable market for this honey it is very likely that both the number of beekeepers and the number of colonies of bees in the United States would decline significantly.

When our present duty on honey was established more than 40 years ago, it may have been a significant figure since honey was selling for 4–6¢ per pound. Now that honey prices are 55–60¢ per pound certainly it is an insignificant figure. The combination of a large U.S. honey market, an insignificant duty on imports and their need for hard currency, such as the U.S. dollar, has caused more and more countries to go into the honey production business with most of this increased production being directed to the U.S. market! For example, in the last 20 years honey imports by the U.S. have jumped from less than 5 million pounds to more than 90 million pounds annually. If the present rate of imports continues throughout this year, another record level will be set in 1983. Unless some action is taken, our domestic honey producers are in serious danger of "drowning in this ever-increasing flood of imported honey!"

A major portion of our total honey imports come from countries such as China, Mexico, and Argentina. The lower economic standards in these countries, their high degree of government regulations, control, or even subsidies for exports, makes it a most unfair competition for our domestic producers. Adding the additional factor of no significant duty on honey coming into the United States, while other countries have exorbitant duties or outright bans on honey imports, then it is easy to see why the United States has become the dumping grounds for the world's surplus honey production.

One of the most significant results of this honey market situation has been the impact on the U.S. Honey Price Support Program. This program, designed as a marketing assistance program for the U.S. honey producer, functioned for many years with little or no cost to the U.S. taxpayer. However, as a direct result of the displacement of domestic honey purchases by U.S. processors, who have turned to the cheaper foreign products, the Commodity Credit Corporation acquired over 35 million pounds of the 1981 honey crop that had been placed under loan. Even larger takeovers from the 1982 honey crop are predicted!

One solution to the problem of C.C.C. aquisitions of honey that has been proposed by the U.S. Department of Agriculture is to change the Honey Price Support legislation giving the Secretary of Agriculture "discretionary authority over the program." This would allow him to set the level of price support at a level where it would not be economically profitable for another country to ship honey to the United States! Unfortunately, the domestic U.S. Honey producer will be bankrupt long before this point is reached!

The American Beekeeping Federation has on many occasions requested assistance from the United States Trade Representative's office to negotiate a reduction of import duties on honey by other countries. We have also suggested administrative changes in the Price Support Program which would encourage the redemption of honey under loan and greatly reduce the amount of honey that would be acquired by the Commodity Credit Corporation.

None of our requests or suggestions have been acted upon and we feel that we must now look to Congress to provide the measures of relief which will make it possible for our domestic beekeeping industry to survive!

Therefore, we are strongly supportive of legislation calling for increased duties on honey, such as the bill introduced by Rep. Richard Shelby (AL), H.R. 1217, and similar legislation filed in the Senate by Senator Larry Pressler (SD) and his several cosponsors. We have urged each of our members to make known their support for this legislation and also request that this Sub-Committee on Trade of the Committee on Ways and Means, U.S. House of Representatives, unanimously recommend the passage of this bill to the full Ways and Means Committee and by the House of Representatives.

BEST HONEY FARMS,
Sunfield, Mich., May 2, 1983.

JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR SIR: We are commercial beekeepers in the State of Michigan and run approximately 800 colonies. Last year we put almost our entire crop under the Federal Commodity Credit loan. Due to the influx of imported honey we could not sell it for a competative price; we turned it over to the Commodity Credit Corporation in July. This is why we support House Bill 1217, concerning an import tariff on honey. If the American beekeeper is going to survive we have to be able to sell our honey. If the beekeepers don't survive the agricultural community as a whole will suffer, as bees are needed to pollinate a majority of the crops in the United States. The majority of these pollination services are provided free.

We encourage the passage of House Bill 1217, which will bring the honey market back to the United States beekeepers.

Sincerely,

OREN BEST.

FALMOUTH, MICH., *May 4, 1983.*

DEAR SIR, I just received word today that you would be holding hearings on tariff legislation including the bill H.R. 1217 filed by Rep. Richard Shelby.

I am 32 years old and have been involved full time in commercial beekeeping for ten years. During this time U.S. consumption of honey has remained fairly constant and production declined slightly. At the same time I have watched honey imports rise from less than 10 million pounds to over 92 million pounds. Our present 1¢ per lb. tariff was set while the domestic honey price was approx. 5 cents per lb. Today with other major honey consuming countries imposing tariffs of 25 percent to 80 percent on honey its not hard to figure out how the U.S. has become a dumping ground for surplus world honey production.

I feel confident that if this bill was placed into law it would slow the rapid rise of imported honey and open a larger share of the U.S. market back to our domestic producers. This would help maintain an adequate beekeeping industry to insure the production of the many agricultural crops that depend on pollination for the benefit of all our U.S. consumers.

Thank you.

DON BYRNE.

CENTRAL FLORIDA BEEKEEPERS ASSOCIATION,
Eustis, Fla., May 10, 1983.

Rep. JOHN J. SALMON,
House Ways and Means Subcommittee, Washington, D.C.

DEAR REP. SALMON, We, the 85 members of the Central Florida Beekeepers Association do hereby endorse and encourage passing Bill # H.R.-1217 to increase the duty on imported honey.

Thank you for your cooperation in this matter of great concern to the domestic honey industry.

Very truly yours,

MARILYN WEBB,
Sec-Treasurer CFBA.

CROOKED CREEK APIARIES,
Marvell, Ark., May 2, 1983.

Judge J. SALMON,
Chief Counsel, Committee on Ways and Means, House of Representatives, Washington, D.C.

As beekeepers commercially here in Arkansas we are delighted to hear of the tariff bill being introduced to increase tariff on honey. You have our full support on this matter.

Thank you.

HOWARD AND LUETTA WADDELL,
JOHN AND CAROLYN SCOTT.

EARTHWORK FARMS,
Lake City, Mich., May 11, 1983.

JOHN J. SALMON,
Chief Consul, Committee on Ways and Means,
House of Representatives.

DEAR CONGRESSMAN SALMON, I am writing to add my thoughts and support to H.R. 1217, a bill introduced by Mr. Shelby in February. The intent of the proposed law as I understand it is to establish a tariff of $.10/1b. on honey imports to aid the ailing bee industry.

You probably know well that the industry cannot absorb a decline in honey prices, as beekeepers are paid little enough for such a healthful, delicate and delicious sweet substance. The real solution to the problem lies more in promoting the use of honey than restricting imports. But perhaps a stopgap action is needed now until honey can come into more general use.

I am convinced that, though we live in a world-based economy, local use of locally produced products is ultimately the best way to approach living. I have no quarrel with Chinese, Mexican or Argentinian beekeepers; they are men and women like us who need to make a living and undoubtedly live a far less consumptive lifestyle than the average beekeeper in this country. Perhaps homeostasis is the key to harmonious living around the world in the future.

In the meantime, perhaps the tariff should be put into place and the proceeds used to promote the use of honey. The agricultural industry as we know it cannot survive a collapse of the bee industry.

Sincerely,

BOB BERNARD, *Beekeeper.*

FLORIDA STATE BEEKEEPERS ASSOCIATION,
Tallahassee, Fla., May 1, 1983.

JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR CHIEF COUNSEL SALMON: We have become aware of the possibility of your Committee increasing the tariffs on imported honey. Most Favored Nations tariff would increase from one cent per pound to ten cents per pound and others would increase from three cents per pound to twenty cents per pound. The Florida State Beekeepers Association wholeheartedly supports such a move.

Official U.S. Government figures indicate that it costs American beekeepers in excess of one dollar to produce a pound of honey. Since U.S. per capita income is much higher than countries such as China, Argentina, and Mexico, production costs in these countries are much lower than for the U.S. beekeeper. Therefore, these countries can afford to sell their honey at lower prices. The United States has become a dumping ground for this cheaper honey. Understandably, honey packers in this country must buy the least expensive honey for their purposes. Import honey prices are such that many of us cannot break even if we are forced to accept them.

What we are asking for is some semblance of *fair* "free trade" policies. We cannot develop much of an export business when the Argentine tariff is 28 percent ad valorem, the Chinese tariff is 80 percent ad valorem, and the Mexican tariff if 50 percent ad valorem, plus surcharges.

We desperately need these tariff increases to reduce the large difference between imported and domestic honey prices. Favorable consideration of this matter would help American beekeepers as well as reduce government intake under the loan program substantially.

Yours very truly,

WILLIAM MERRITT, *President.*

MORRIS APIARIES,
Greeley, Colo., May 5, 1983.

JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR SIR: One of the biggest problems the beekeeper faces in todays honey market is the fact that the U.S. is importing honey and only charges 1 cent a pound import tax. That allows the packer to purchase their honey at a lower price than the beekeeper can afford to sell his product.

I have been selling my honey to a local packer for the past two years. He has been paying from 56 cents to 58 cents a pound but he claims he can buy imported honey for 46 to 48 cents a pound. But if I want to sell my honey to him I will have to drop my price 10 cents a pound which could cost me as much as $20,000.00. With the high cost of production this could be devastating and I am a small producer.

With this 10 cents import tax I would be back in the ball game. Plus the packer would not have the freight on local honey.

So you can see I am for the import taxes.

Sincerely,

Bill Morris.

DANIELS, HOULIHAN & PALMETER, P.C.,
Washington, D.C., May 9, 1983.

JOHN J. SALMON, ESQ.,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR MR. SALMON: The National Honey Packers and Dealers Association (NHPDA) opposes enactment of H.R. 1217 and urges that the Bill not be reported favorably. H.R. 1217 would increase the rate of duty on imports of honey from countries enjoying most-favored-nation status from one cent to ten cents per pound, and for other countries from three cents to twenty cents per pound.

The members of the NHPDA purchase both domestic and imported honey which they purify, process, and place in retail containers, or sell to industrial users, such as bakers and other food processors. The members of NHPDA have been forced, in recent years, to import greater amounts of honey because of unreliable supplies in the United States. The domestic honey crop has fluctuated here enormously because of such factors as weather and reduced pasturage. Imports have been necessary to augment the supply of domestic honey utilized by NHPDA's members.

Duty increases of the magnitude of those contained in H.R. 1217 would have a disastrous effect upon United States honey packers, and upon the entire industry. Honey is just one of several forms of price sensitive sweetners available to the public. Rapid increases in the price of honey during the 1970's resulted in the loss of major markets to competitive sweetners, particularly the newly developed high fructose corn syrup which captured many of the traditional industrial markets previously held by honey. Many of these markets have not been recaptured by honey, and probably never will be.

Given the loss of markets to other sweetners over the past decade, honey simply does not need any further upward pressure on price. Yet this is precisely the effect that enactment of H.R. 1217 would have. The price increases that of necessity would follow these high duty increases would simply price honey further out of the market as a competitive sweetner. No one in the honey industry needs further market erosion through higher prices. These could lead to the bankruptcy of many of our members as well as a reduction in the market available for domestic honey producers.

We, therefore, urge the Committee not to report favorably on H.R. 1217.

Very truly yours,

N. DAVID PALMETER,
Attorney for National Honey Packers and Dealers Association.

HARTLAND, WIS., *May 11, 1983.*

JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means.

DEAR SIR: Please put this letter on record as being in favor of the bill coming before the U.S. Senate increasing the Honey Import Tariff from 1¢ to 10¢ per pound. I'm sure this increase would help many beekeepers in our country.

I really believe we have been hurting ourselves for too long. I really feel imported honey should be as high as American honey.

ROB NEUREUTHER.
An American Beekeeper.

PENINSULA, HONEY CO.,
Lowell, Mich., May 9, 1983.

JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, House of Representatives, Washington, D.C.

GENTLEMEN: I would like to take this opportunity to comment on bill H.R. 1217, introduced by Congressman Richard Shelby, regarding the increase of duties on imported honey.

While it is true that the increase of tariffs alone will not create a truly equitable relationship between foreign and domestic honey, I do feel that a duty increase of any size is one step in the right direction.

As I understand it the present duty imposed on imported honey is from an era when honey wholesaled for around 10¢ per pound. Honey now wholesales for around 60¢ per pound. Doesn't it seem like maybe it is time to re-evaluate that duty?

An increased duty coupled with an overhaul of Commodity Credit Corp. purchasing policies could have the effect of rehabilitating a badly ravaged industry.

If beekeepers are forced to fight for their place in a non-profitable domestic market, the result will be a lot fewer beekeepers, and, in turn, a lot less domestic honey to worry about. In the long run the entire agricultural system will suffer. Bees not only make honey; the pollinate everything.

Commercial pollination it big business and fruit and vegetable growers are the first to admit that the loss of pollinating honey bees would damage their yields.

I see increase of the duty on imported honey as a good first step and a very positive signal to our struggling industry.

Not only is it good for beekeepers, it's good for everyone.

Sincerely Yours,

THOMAS SPEERSTRA.

QUEEN BEE GARDENS,
Lovell, Wyo., May 3, 1983.

JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR SIR: I am a beekeepers and feel that the United States is supporting the whole world honey market.

I am in favor of increasing the tariff on honey from 1 to 10 cents a pound as recommended in the bill filed by Rep. Richard Shelby.

Sincerely,

CLARENCE B. ZELLER.

ROYAL AIR FORCE APIARIES, INC.,
Redding, Calif., May 3, 1983.

Re Tariff legislation on honey.

JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means,
Washington, D.C.

GENTLEMEN: We would like to express our support for the bill filed by Rep. Richard Shelby, to be considered by the Committee of Trade.

We are of the opinion that beekeepers and honey producers do not have the financial longevity and strength that will be necessary to wait for the honey marketing scene to regain the balance with supply and demand. A 10 cents per pound tariff would surely slow the inflow of imported honey and allow our domestic honeys to be put back on the grocery store shelves instead of in storage in A.S.C.S warehouses at our ("taxpayer") expense.

We appreciate your study and attention to the current disorder of honey marketing.

Respectfully,

RICHARD GANNON, *President.*

WINNER, S. DAK., *May 5, 1983.*

SUBCOMMITTEE ON TRADE, WAYS AND MEANS COMMITTEE,
U.S. House of Representatives.

I understand you are accepting comments relative to a bill filed by Rep. Richard Shelby to increase the duty on honey imported into the United States (H.R. 1217).

We can import honey. But—we can not import pollination.

Honeybees must be in this country to pollinate billions of dollars worth of crops. So, we need a healthy beekeeping industry.

Since crops are so widely scattered, most pollination must be performed free of charge as a byproduct of producing honey.

Beekeeping is labor intensive so it is very difficult to compete in a free world market. However, we do not have anything close to a free world market. We have a United States "dumping grounds". Other countries have high duties to outright bans on honey importations.

We have an unrealistic one cent per pound.

I strongly favor legislation to increase duties on honey as introduced by Rep. Richard Shelby (AL), H.R. 1217. Also the bill by Sen. Larry Pressler, (SD).

Your favorable consideration will be appreciated.

Sincerely yours,

DONALD R. SCHMIDT, *Beekeeper.*

SIOUX HONEY ASSOCIATION,
Sioux City, Iowa, May 16, 1983.

JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR MR. SALMON: The Board of Directors of the Sioux Honey Association, a nationwide member-owned, honey sales organization, support H.R. 1217. In acordance with H.R. 1217, we approve of the increase in the tariff rate from 1¢ to 10¢ for nations with most-favored status and from 3¢ to 20¢ from all other nations exporting into the United States. These proposed rates would help to relieve the interference with the U.S.D.A. Honey Price Support Program currently being experienced.

Our industry is being inundated with cheap subsidized honey from foreign sources which undercuts our support prices and thus forces large quantities of domestic honey to be appropriated by the U.S.D.A. loan program. We need to import some honey into this country to satisfy demand but the amount entering our country is nearly 100 percent greater in volume than is necessary to meet demand. Thus, our oversupply problem is created.

The honeybee population in the United States serves a vital role in the production of many fruit, nut, and seed crops. This pollinating service provided by the honeybee is essential toward the productive food chain that exists in this country. The livelihood of the beekeeping industry is closely tied to the necessity of income from honey production.

The honeybee population cannot long exist within the United States in competition with the huge amounts of low-priced honey imports presently finding a market in this country.

Therefore, the Board of Directors of the Sioux Honey Association supports such legislation as H.R. 1217.

Very truly yours,

HARRY RODENBERG,
Chairman of the Board.

MILES CITY, MONT., *May 3, 1983.*

JOHN J. SALMON,
House Ways and Means.

DEAR SIR: In regard to tariff legislation on the importation of Honey.

I believe there must be something done to stop the huge volume of Honey being imported into this country.

This is making it very hard for the Honey producers of this country to make a living.

I don't think this country should absorb all the excess Honey from the whole world.

I do hope you can do something to ease the situation by putting some kind of tariff on the Honey that is being imported into this country.

I am a Honey Producer.

Yours Truly,

KERMIT SLATER.

ELMWOOD, WIS., *May 4, 1983.*

JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR MR. SALMON: We, as beekeepers feel the need for the increase tariff on honey, from 1 to 10¢ per pound. The nation as a whole needs the bees for the pollination of the crops. If a beekeeper cannot make a living keeping bees, which at the present time is almost impossible, there will be fewer and fewer bees to pollinate the crops of our U.S.A., making for less production.

Sincerely yours,

Mr. and Mrs. WALTER E. SMITH,
Mr. and Mrs. JOHN G. SMITH.

SUNSTAR FOODS, INC.,
CONSUMER PRODUCTS DIVISION,
Minneapolis, Minn., May 2, 1983.

JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR MR. SALMON: Sunstar Foods, Inc. is a fairly significant Honey processor and we are writing to you to make a statement urging the House Ways and Means Committee to reject the pending 10¢ per pound tariff on imported Honey.

We do so for the following reasons:

(1) Since the inception of the Government Honey support program, the price of domestic Honey has gone from 9¢ per pound to this years support price of 64¢ per pound. In recent years the level has escalated remarkably!

(2) This has raised the retail prices on Honey to astronomical levels and has had a distinctly depressing effect on consumption of this product category.

(3) The government support price has been set so artificially high, that even with a 10¢ per pound tariff, foreign Honey would still be more economical to purchase than domestic. The net result of the tariff, then would be to cost the U.S. consumer 10¢ per pound because Honey processors would have to continue to purchase imported Honey and would have to pass this duty on to consumers.

(4) We are currently spending millions of dollars on aid programs to Mexico and other Honey exporting countries to protect their finances. How could we possibly consider turning around and imposing such a significant barrier to their trade opportunities?

We sincerely appreciate consideration for this position from a Honey processors point of view.

Sincerely,

TOM A. SWANSON,
Vice President, Sales and Marketing.

HUTTO, TEXAS, *April 5, 1983.*

JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, House of Representative, Washington, D.C.

DEAR MR. SALMON: I would like to express my opinion on the bill filed by Rep. Richard Shelby on the tariff on honey. I want to see at least 10 cents a pound. This would help in two ways. One it would help keep the price of honey right for the beekeeper and the other would bring more money into the government.

Sincerely yours,

WM. L. VICTOR.

MONTVERDE, FLA., *May 7, 1983.*

JOHN SALMON.

DEAR SIR: I am a commercial beekeeper and due to the import of honey I am unable to sell my honey.

Honey packers all say they have plenty of honey that they can get import honey much cheaper.

I hope you will do something about importing honey.

Thank you.

LAMAR WALDREP.

ROGERS, TEX., *May 4, 1983.*

Hon. JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR SIR: I understand that the House Ways and Means Committee has scheduled hearings on tariff legislation including the bill filed by Rep. Richard Shelby of Alabama which would increase tariffs on honey from 1 to 10 cents per pound. We need and will appreciate your support of this bill.

The beekeeping industry is in bad shape. Over 80 million pounds of honey was imported this past year. This has had a direct negative impact on my business. I am a honey producer and also a broker for domestic honey. Our buyers have almost completely been buying foreign honey. Our stronger dollar and the cheaper labor of those countries such as Mexico, Argentina and China have increased the influx of honey into the United States. Our market will absorb our production but with 80 million additional pounds coming into the United States, our government has had to take over huge quantities of honey. With import tariff as cheap as it is now, this situation can only get worse.

We do appreciate your support of this bill.

Sincerely yours,

G. C. WALKER, Jr.

GOODLETTSVILLE, TENN., *May 3, 1983.*

Subject: Proposed increased tariff on imported honey.

Reference: Subcommittee for Trade.

JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, House of Representatives, Washington, D.C.

MR. SALMON: Please allow me to register my unqualified and most enthusiastic support for the proposed increase from 1¢/lb. to 10¢/lb. for the tariff of imported honey. Such an increase in the cost of imported honey will be of great benefit in helping our commercial beekeepers meet the unfair competition of foreign honey which is subsidized and subsequently dumped in the United States.

Thank you for this opportunity for me to express my views.

Respectfully,

ALONZO S. WESTBROOK III.

WIGGINS APIARIES,
Tallahassee, Fla., May 4, 1983.

DEAR SIR: In regard to the bill filed by Rep. Shelby which would increase tariffs on honey from 1 to 10 cents/lb.:

In light of the fact that many other honey exporting countries charge 25 to 75 percent import tariff or even prohibit the importation of honey 10¢/lb. is not enough—but is a good start. Please support this measure.

Sincerely,

JAY WIGGINS.

WIND RIVER HONEY CO.,
Riverton, Wyo., May 5, 1983.

JOHN J. SALMON,
Committee on Ways and Means, House of Representatives,
Washington, D.C.

DEAR SIR: As a commercial honey producer living in Wyoming, I strongly support the effort being made to raise the import duty on honey from one cent a pound to ten cents a pound. Obviously the one cent is not realistic in today's market. With a government support price of 64.4¢ per pound our government is in essence buying foreign honey, especially mainland Chinese honey. Some relief is needed. I don't think our industry can survive the present import situation.

Sincerely,

GEORGE KRAUSE.

WINDING BROOK FARM,
Harrison, Mich., May 4, 1983.

JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, House of Representatives, Washington, D.C.

ATTENTION CHIEF COUNSEL SALMON: I am a commercial beekeeper in north central Michigan. Our main income is from the honey we produce.

In the last few years, the honey market has been severely threatened by imports. Imported honey has increased from 4 or 5 million pounds in 1980, to a record of 92 million pounds in 1982. Due to this increase in imports, the price of honey has been affected. The USDA, under the CCC price support program, has received 65 million pounds of domestic honey from beekeepers who have lost their markets to foreign honey. In February, Secretary Block requested that honey be removed from the price support program. At this time, without some adjustments on imports, the domestic honey market would be disastrously affected.

We ask your support of Representative Richard Shelby's bill to increase tariffs on honey from 1 to 10 cents a pound. We also ask for your continued support of the honey price support program.

We, as members of the Michigan Beekeepers Association, and the American Beekeepers Federation, thank you for your assistance in this matter. Copies of this letter will be sent to our Representative, Don Albosta, and Michigan Senators Don Reigle, and Carl Levin.

Respectfully submitted,

LAWRENCE W. GROSS.

WYOMING BEEKEEPERS ASSOCIATION,
Riverton, Wyo., May 4, 1983.

J. SALMON,
Chief Counsel, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR MR. SALMON: I am writing concerning a hearing on the possibility of increasing the tariff on honey from one to ten cents per lb. I hope this letter reaches

you by the May 5 deadline, and if not, I hope you will still be able to consider these comments. I heard only yesterday of this meeting.

I am President of the Wyoming Beekeepers Association, I believe I am speaking for all our members when I say we support this increased tariff. I am sure you are aware of the figures on honey imported into the United States, that China has shown the greatest increase over the last several years and it also has the greatest future potential for increase. With the price for good quality honey in China around 5 cents/lb. while in the United States the same honey is worth 56 cents/lb., it is not hard to see why they can afford to export honey to the United States. It is also just as obvious why U.S. honey producers can not produce honey for 5 cents/lb. when the standards of living are compared between these two countries.

Another reason the increased tariff is needed is to bring the tariff in line with the present price of honey. When the present one cent tariff was imposed, honey was around 12 cents/lb., honey is now worth 56 cents/lb., with the support price at 64.4 cents.

Because of the rapidly increasing imports of cheaper honey into the United States, the price of honey to the producer has not risen for about two years while the support price has continued to rise relative to inflation. When the difference between the support price and the market price was small very little honey was placed under loan with the government, however now that this difference is larger (about 8.4 cents) a lot of honey has been placed under loan. Thus, if the price of imports can be raised to a more reasonable level, the difference between the market and support price, should be decreased and smaller quantities of honey would be placed under loan.

I have also heard that there are inequitites between U.S. import tariffs on honey and tariffs in other countries, however I do not have any figures to support this. If this is correct, perhaps someone at your meeting will have the figures to back this up.

I hope that your hearing will determine that and increased tariff is needed.

Thank you for your time.

Sincerely,

LARRY KRAUSE, *President.*

H.R. 1226

To temporarily reduce the duty on certain disposable surgical drapes and sterile gowns.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27 and May 10, 1983, the Administration testified that it had no objection to a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

We believe that the effective date of all bills that are not a continuation of current tariff treatment should be no sooner than fifteen days after enactment. Providing an effective date fifteen days after enactment will enable the U.S. Customs Service to notify its field offices and U.S. importers of changes made.

H.R. 1226—"To reduce temporarily the duty on certain disposable surgical drapes and sterile gowns."

We have no objection to enactment of H.R. 1226. This legislation removes an inequitable cost imposed on manufacturers of hospital sterile gowns and surgical drapes of bonded-fiber fabrics as a result of the current tariff structure. Enactment of H.R. 1226 could provide an impetus for wider use of bonded-fiber fabric in the production of disposable, sterile gowns. Since this fabric is made in the United States, additional employment opportunities could result.

Some uncertainty remains about the likely competitive impact of the bill. We cannot assure that the legislation will have no effect on the small domestic production of sterile gowns and surgical drapes. However, we note that the duty reduction is for a temporary period to allow assessment of domestic impact. The USITC estimates a potential revenue loss resulting from enactment of H.R. 1226 of approximately $1.8 million in the first year, scaling down to $950,000 in the final year.

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We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

BACKGROUND

H.R. 1226,[1] if enacted, would equalize, until January 1, 1989, the rates of duty between paper and bonded manmade-fiber disposable gowns and surgical drapes designed for use in performing surgical procedures. It provides for a temporary reduction in the duties on disposable gowns and surgical drapes of bonded manmade-fiber fabric imported on or before January 1, 1989. It would reduce the column 1 rates of duty [2] on both the disposale gowns (currently about 31 percent ad valorem equivalent) and the surgical drapes (about 21 percent ad valorem equivalent) to 5.6 percent ad valorem, the rate currently assessed on similar products made from paper. The

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[1] H.R. 1226 was introduced in nearly identical form in the 97th Congress as H.R. 5891 and S. 2996.

[2] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

column 2 rates of duty [2] for the disposable gowns and drapes would be reduced to 26.5 percent ad valorem.

DESCRIPTION AND USES

The subject articles are made from nonwoven manmade-fiber fabric and—like the counterpart paper products—are designed for one-time use in hospitals, clinics, laboratories, or similar areas. Disposable hospital apparel consists primarily of shirts, pants, and gowns. However, of these three the legislation would cover only gowns. The surgical drapes are sheet-like covers used in operating rooms. The apparel and drapes made from nonwoven manmade-fiber fabric or paper are sterilized and are often treated with antistatic, antimicrobial, or other chemicals.

The nonwoven manmade-fiber disposable apparel and surgical drapes are made primarily from a web of textile fibers which are assembled and held together by applying a bonding or adhesive agent or by fusing self-contained thermoplastic fibers. These nonwoven fabrics are not made on conventional looms or knitting machines as are other textile fabrics. The apparel and drapes produced from paper contain 1 to 3 layers of tissue paper which are either embedded with polyester fibers or reinforced with a scrim fabric (usually of nylon) inserted between the layers.

The construction of the garments and surgical drapes, whether of nonwoven fabrics or of paper, is similar. The nonwoven fabric and paper are cut into the desired parts which are then assembled, either by sewing or gluing or both. The articles are usually chemically treated and then packaged and sterilized.

The nonwoven manmade-fiber product accounts for about a fourth of U.S. sales of disposable apparel and surgical drapes; the paper product accounts for the remainder. Although the two products are interchangeable in terms of end uses, the nonwoven product is usually softer to the touch and more resistant to liquids and linting, thereby reducing the possibility of infection. On the other hand, the paper product reinforced with manmade fibers might be more suitable for an examination gown, which is usually subject to less stress and is worn for a shorter period of time than other disposable garments.

TARIFF TREATMENT

The nonwoven manmade-fiber disposable gowns and surgical drapes are classified for tariff purposes as textile products under schedule 3 of the Tariff Schedules of the United States Annotated (TSUSA); the gowns are covered by statistical annotations to two items, while the drapes are provided for in a residual or "basket" category. The tariff treatment applicable to these products is shown in the following table.

NONWOVEN MANMADE-FIBER DISPOSABLE GOWN AND SURGICAL DRAPES DESIGNED FOR USE IN HOSPITALS, CLINICS, LABORATORIES, OR CONTAMINATED AREAS: U.S. RATES OF DUTY, CURRENT AND NEGOTIATED, BY TSUSA ITEMS

[Cents per pound; percent ad valorem]

TSUSA item	Brief description	Col.1 rate		Col. 2 rate
		Current [1]	Negotiated	
	Disposable apparel:			
	Men's and boys':			
379.9601	Other (e.g., gowns)	16¢ +24%	17%	76%
	Women's, girls', and infants':			
383.9205	Other (e.g., gowns)	16¢ +24%	17%	76%
389.6265 [2]	Surgical drapes	16¢ +13%	9%	78.5%

[1] Effective Jan. 1, 1983
[2] A "basket" provision that includes a large number of miscellaneous textile items.

The column 1 rates of duty are most-favored-nation (MFN) rates and are assessed on imports from all countries except Communist countries other than Hungary, the People's Republic of China, Romania, and Yugoslavia. Imports from other Communist countries are assessed the higher column 2 rates. The negotiated rates represent the column 1 rates reduced as a result of concessions granted in the Tokyo

[2] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

round of trade negotiations, conductd under the General Agreement on Tariffs and Trade during 1973-79. The duty reductions granted on the nonwoven manmade-fiber disposable apparel and surgical drapes will be implemented in 1-year intervals (staging) over a period of 6 years, with the initial reductions effective January 1, 1982.

The nonwoven manmade-fiber disposable apparel and surgical drapes are not eligible for duty-free entry under the Generalized System of Preferences (GSP),[4] and no LDDC rates of duty are provided.[5] However, disposable apparel and surgical drapes made from paper, classifiable in item 256.87, are eligible for duty-free treatment under the GSP, unless a product of Mexico.

Although virtually all U.S. imports of textile products made of manmade fibers are subject to control under the Multifiber Arrangement (MFA),[6] the disposable gowns and surgical drapes made from nonwoven manmade-fiber fabric are currently excluded from restraint. Effective January 1, 1979, as a result of the textile trade agreement negotiated with Mexico, separate statistical provisions were created in the TSUSA for the disposable apparel in order to remove the items from control under the MFA.

Because production of disposable apparel is labor intensive, a number of U.S. producers have operations in Mexico to assemble the garments from parts that were cut in and shipped from the United States. The disposable apparel and other articles assembled from U.S.-fabricated components and returned to the United States as finished or partially finished products enter under TSUS item 807.00. This item provides that the duty assessed on articles assembled abroad wholly or partly with U.S.-fabricated components be applied to the full value of the imported articles less the value of the U.S. components. For the most part, the duty is assessed on the value added abroad.

STRUCTURE OF THE DOMESTIC INDUSTRY

There are approximately 10 firms producing disposable hospital apparel and surgical drapes in the United States. The two largest firms are American Converters Division of American Hospital Supply Corp., and Surgikos, a division of Johnson and Johnson. Both producers are located in Texas, and account for approximately 70 percent of the U.S. market. The following firms account for almost all the remaining share of the market: Mars, Division of Workwear, Cleveland, Ohio; Buckeye Cellulose Division of Proctor and Gamble, Cincinnati, Ohio; Kendall, Boston, Mass.; Humboldt Corp. and Ultratek Co., Columbus, Miss.; General Econo Pack, Philadelphia, Pa.; and Kimberly-Clark Co., Neenah, Wis.

The two leading firms as well as several of the smaller companies[7] make use of TSUS item 807.00 in the manufacture of disposable hospital apparel. Converters and Surgikos together employ approximately 1,000 people[8] in the United States, and about 3,000 people in Mexico to perform the asembly operations.

With the exception of Surgikos, these firms produce disposable hospital apparel and surgical drapes from both paper and nonwoven manmade-fiber fabric. Surgikos produces these items in paper or paper reinforced with manmade-fibers. Virtually all production of nonwoven manmade-fiber fabric is accounted for by Kimberly-Clark, E.I. du Pont de Nemours & Co., and Dexter Industries. The United States is the leading country in the technological development of nonwoven manmade-fiber fabric.

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[4] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

[5] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column numbered 1 applies.

[6] The MFA provides the legal framework in which member countries negotiate bilateral agreements allowing for the orderly development of world trade in textiles and apparel.

[7] Humboldt, Ultratek, and Kendall do not have their disposable apparel assembled offshore.

[8] This figure represents total employment for both subsidiaries, including employees involved in the production of other health care products.

PRODUCTION

Data on domestic production of disposable gowns and surgical drapes made from nonwoven manmade-fiber fabric are not separately reported from those on production of similar articles made from paper. The paper products dominate the disposable apparel and drape market, acounting for more than three-fourths of the market. Nevertheless, the use of nonwoven manmade-fiber fabric in these products has been increasing rapidly in recent years, partly because it is more comfortable than the paper product.

The following table shows U.S. production of all disposable apparel and surgical drapes made from paper and nonwoven manmade-fiber fabrics. Data are not separately available by type of apparel. The data includes products produced entirely in the United States and those assembled in foreign countries from U.S. components and reentered into the United States under TSUS item 807.00. Item 807.00 is estimated to account for 90 percent of the total production shown.

[Dollars in millions]

Year	Quantity	Value
1979	$46	$114
1980	49	123
1981	52	134
1982	55	143

Source: Telephone conversations between a private industry consultant and Commission staff.

The increase in the domestic production of all disposable hospital apparel and drapes was due mainly to technological advances, which enlarged market opportunities for the improved products. Disposable products currently represent about 40 to 45 percent of the total hospital apparel market. While the cost of disposable articles is about equal to that of reusable textile items, there is evidence that contamination is reduced with the use of the disposable items.

U.S. IMPORTS

Imports of nonwoven manmade-fiber disposable apparel during 1979–82, based on official statistics of the U.S. Department of Commerce, are shown in the following tabulation.

[Units in millions; dollars in millions]

Year	Men's and boys'		Women's, girls' and infants'		Total	
	Units	Dollars	Units	Dollars	Units	Dollars
1979	1.1	0.6	3.1	3.0	4.2	3.6
1980	0.6	0.8	2.1	1.5	2.7	2.3
1981	8.0	2.5	3.5	2.7	11.5	5.2
1982	17.0	5.2	3.7	3.1	20.7	8.3

Virtually all the disposable apparel imported during 1979–82 was made from U.S.-fabricated components and, therefore, entered under TSUS item 807.00. Two-thirds of the total value of the 807.00 imports consisted of the duty-free value (i.e., the value of the U.S. components), and the remainder of the dutiable value (for the most part, the value added abroad). Almost all the imports came from Mexico; it was the only supplier in 1982.

Leading importers of these disposable hospital apparel items were American Converters Division of American Hospital Supply, Evanston, Illinois, Surgikos Division of Johnson and Johnson, New Brunswick, New Jersey; Mars Division of Workers Corporation, Cleveland, Ohio; Buckeye Cellulose Divisioin, Proctor and Gamble, Cincinnati, Ohio.

Because imports of the surgical drapes are classifed under a "basket" provision (TSUSA item 389.6265), which includes a large number of miscellaneous textile articles of manmade fibers, separate data on imports of these drapes are not available.

The total value of imports entering under TSUSA item 389.6265 increased 84 percent from $19.4 million in 1979 to $35.7 million in 1982.

U.S. EXPORTS

Exports of nonwoven manmade-fiber disposable gowns and surgical drapes are not separately reported. However, industry sources indicated that exports of the finished products represent less than 10 percent of U.S. production.

APPARENT U.S. CONSUMPTION

Data on apparent U.S. consumption are not available because production and import statistics are not comparable. The production data includes paper and nonwoven manmade-fiber disposable apparel and drapes, while import data includes only the apparel of nonwoven manmade-fibers. The reinforced paper products and the manmade fiber drapes are in a basket category, and imports are not separately reported. According to industry sources the U.S. market for disposable hospital apparel and drapes is estimated to be $250 million. Approximately 80 percent of this market is believed to be supplied by imports under TSUS item 807.00.

POTENTIAL ANNUAL LOSS OF REVENUE

Based on official import statistics for 1982, the potential loss of revenue resulting from a reduction in duty on nonwoven manmade-fiber disposable gowns (TSUSA items 383.9205 and 379.9601) would be approximately as follows (in thousands of dollars):

Year:	*Lost revenue*
1983	$1,800
1984	1,600
1985	1,375
1986	1,150
1987	950

Because the disposable surgical drapes are classified in a basket provision (TSUSA item 389.6265), the potential loss of revenue cannot be calculated as to those articles.

TECHNICAL COMMENTS

In order to be consistent with other Appendix items, the specified date should be changed to "12/31/88" to simplify administration of the provision.

It is suggested that the effective date be modified, to permit adjustment by the Customs Service, so that the change is effective on and after the fifteenth day following enactment.

AMERICAN REUSABLE TEXTILE ASSOCIATION, INC.,
St. Louis, Mo., May 3, 1983.

JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR MR. SALMON: A recently received announcemnt of the Subcommittee on Trade #9, Committee on Ways and Means, U.S. House of Representatives indicates that hearings regarding H.R. 1226 were planned for April 27, 1983. It was not possible for a representative of the American Reusable Textile Association, Inc. to testify in the hearings referred to but we understand that a written statement received by May 12, 1983 will be considered in these hearings. Accordingly, please note our opposition to H.R. 1226 as follows:

The American Reusable Textile Association, Inc. opposes the provisions of H.R. 1226 which, if enacted, would significantly reduce the ad valorem duty on disposable gowns and drapes. The American Reusable Textile Association, Inc. (ARTA) represents manufacturers of institutional and vocational garments, textile mills, fiber producers, laundry equipment and supply manufacturers, and a wide variety of institutional laundering facilities including rental, institutional, cooperative and central hospital laundering facilities.

All of the firms represented within ARTA have major interests in the use of reusable surgical textiles. Legislation that would reduce duties on foreign made disposable surgical products would adversely affect all of the businesses within the ARTA membership. This situation could impact negatively upon employment within the

various businesses referred to, all of which offer livelihood to a generally unskilled labor force. It should also be noted that legislation which would jeopardize the employment of this sector of our population, including many minorities, is incongruous with Congress' long standing attempt to enact laws to aid the employment of this very group. It would be unconscionable if, as a result of the legislation in question, business dislocations would cause still another group of hard core unemployed individuals to further strain the limited resources of a national budget already overburdened with human needs.

Furthermore, reusable textile materials for surgical hospital use offer equal or better performance at lower expenditures to control the ever increasing cost of health care. Reusable textile materials offer the health services field high performance and cost effective value which support the goal of improved health care for our population.

It should also be noted that the producers of goods and services that form the American reusable textile industry, represent a valuable national resource which would be jeopardized by tariff legislation favoring foreign manufacturing facilities.

We request that this correspondence become a part of the Subcommittee hearings and that our opposition to H.R. 1226 be noted by all members of the Subcommittee.

Sincerely,

HOWARD M. ZINS,
Chairman, Legislative Committee.

STATEMENT OF E. I. DU PONT DE NEMOURS & CO.

E. I. du Pont de Nemours & Company opposes the adoption of H.R. 1226, a bill which would permit disposable surgical gowns and drapes of man-made fibers to enter the United States at a duty rate presently applied to paper products.

The Du Pont Company is a United States producer of a wide range of textile and nontextile products. Du Pont supplies its "Sontara" spunlaced products to U.S. firms which use "Sontara" in the manufacture of disposable surgical gowns and drapes. "Sontara" and the gowns and drapes made from "Sontara" are not defined as products of man-made fibers. "Sontara" products are properly classified as paper products since they are by any relevant standard principally composed of woodpulp.

The supporters of this legislation have urged that it is needed to remedy a claimed inequity that is said to exist because competing products bear different rates of duty. It is also asserted that the products currently classified respectively as textile or paper products are "substantially identical." Finally, it has been claimed that passage of H.R. 1226 will assist in the containment of the costs of health care. Each of these claims is demonstrably without merit.

It cannot be legitimately asserted that it is inequitable under the concepts of the Tariff Schedules of the United States to classify different but competing goods differently for duty purposes. The tariff schedules classify goods according to their composition, without regard to other goods with which they may or may not compete. Examples of different classification for competing goods abound in the tariff schedules. A few are listed below.

TSUS Item	Description of goods	Column I duty rate
358.14	Machinery belts of man-made fibers	6¢/lb.+11.5%
773.35	Machinery belts of rubber or plastic	5.1%
383.02	Knit sweaters of man-made fibers	30.3%
791.74	Knit sweaters of leather (in part of wool, cotton or man-made fibers)	6.0%
533.74	Mugs of chinaware	20.0%
654.15	Mugs of tin	3.6%
406.68	Adipic acid, benzenoid	9¢/lb.+19.8%
425.99	Adipic acid, non-benzenoid	5.1%

And it is, of course, also true that identical goods, identically classified bear different rates of duty depending on country origin, i.e., MFN vs. Column II rates or availability of GSP status. The fact that these and other tariff rate disparities on competing goods have existed for so long is compelling evidence that Congress has not considered the mere fact of a tariff rate disparity as an inequity requiring legislative redress.

Advocates of H.R. 1226 have asserted that the competing products which currently bear different rates of duty are "substantially identical" and that the Du Pont

product contains 55 percent polyester fiber. Both statement are incorrect. While both products compete for the same end use, they are substantially different in construction. The Kimberly-Clark product is 100 percent polypropylene while the Du Pont product is at least 55 percent wood pulp. (Indeed Du Pont does make "Tyvek," a 100 percent spunlaced polyethylene product which bears the same rate of duty as the Kimberly-Clark product.) These man-made products are already undergoing orderly duty reductions after years of difficult negotiations with all or our trading partners leading to the Tokoyo round trade agreements. Additional duty reductions should not be given away on top of those which were developed through months of international negotiations. This is unfair to those parties who have made investments and commitments based on such orderly reduction of duties. In addition, any further reduction of duties on such products would only serve to increase further imports of such products from low-cost Asian countries. In any case we categorically reject the claim that our "Sontara" product is 55 percent polyester; "Sontara" is 45 percent or less of man-made fiber and, thus, cannot conceivably be considered a textile article.

Finally, and perhaps regrettably, passage of H.R. 1226 will have no appreciable inpact on cost of health care. The sales price of disposable surgical gowns and drapes cannot be arbitrarily set by producers of these items. This is so because the greatest volume of surgical gowns and drapes used in U.S. hospitals is composed of reusable cotton gowns and drapes which are laudered by the hospitals themselves or outside linen services. Margins for all disposables are constrained by the cost of using reusable products in the same end uses. Thus, H.R. 1226 will have little effect on cost of health care.

Du Pont has supported efforts of the United States government to maintain an adequate duty structure on textile products. We believe adoption of H.R. 1226 would tend to undermine the textile program by basing classification of an imported textile item on its intended use rather than its nature as a textile product. Use-related tariff provisions have always been difficult to monitor and the one suggested in H.R. 1226 will be no exception.

For the foregoing reasons, we believe the adoption of H.R. 1226 would alter, for no valid reason, existing well established principles of classification of textile imports. We believe such a change in practice is unwarranted and we oppose this legislation.

Statement of Hercules Inc.

Mr. Chairman, it is a privilege to have the opportunity to present this statement to you and the members of the Subcommittee on the bill H.R. 1226, which, if enacted, would temporarily reduce the duty on certain disposable surgical gowns.

We feel this legislation is equitable and appropriate. At present the tariff schedule applies a duty of 5.6 percent ad valorem to gowns and drapes made of paper while applying a duty rate of 25.8 percent ad valorem to identical gowns made of bonded-fiber fabric. More specifically, the bonded-fiber fabric gowns are 100 percent polypropylene. The paper gowns, classified as reinforced paper, and thus eligible for the lower rate, are actually 55 percent polyester and 45 percent wood pulp. Since the chief component of both is manmade fiber, no rationale exists for one fabric to enjoy such a favorable rate of duty.

Further this legislation is narrowly drawn so that it applies only to disposable surgical drapes and sterile gowns. The tariff equalization would not apply to industrial protective apparel lab coats or contamination gowns.

Additionally, we are advised that the 100 percent polypropylene product has desirable medical benefits over the reinforced paper product. For this reason, if for no other —the better health care of our citizens—the two products ought to be able to compete fairly. As you know, health care costs are continually on the rise and when the opportunity to reduce costs presents itself we hope the House and Senate will respond favorably.

Mr. Chairman, we appreciate the opportunity to present this information to you and we know that the Subcommittee will seriously consider our view.

Statement of Hon. Richard Ray, a Representative in Congress From the State of Georgia

Mr. Chairman, I appear here today on behalf of H.R. 1226, a measure which I cosponsored, and which I actively support.

I have submitted a somewhat more lengthy statement for the record, but the facts are essentially these.

The Kimberly-Clark Co. has broken ground on a $100 million manufacturing plant in LaGrange, Ga. It represents the largest investment by a new company in the history of LaGrange.

Among the products that will be manufactured at this plant, are surgical drapes and gowns. In addition to having almost all of the manufacturing of these gowns done in this country, they are also marketed, sterilized, and shipped for final sale in the United States. Because these surgical drapes and sterile gowns are labor-intensive products, they are folded, stitched, glued, and packaged in Mexico.

When they are shipped back into this country, these products are forced to pay a duty of 16¢ per pound as well as an ad valorem tax rate of 24 percent. The disposable gowns with which they compete, pay a 5.6 percent ad valorem tax rate.

Mr. Chairman, there is no reason for this discriminatory treatment. The Kimberly Clark gowns are made from bonded fiber fabric, and the competition is a substantially identical product made from paper which is reinforced with man-made fiber. Since the competitive product is made of 45 percent wood pulp, it is classified as reinforced paper, and is charged a lower duty rate. This is in spite of the fact that both products are disposable, perform exactly the same function, and are almost identical in appearance.

There are two things which are critical to a clear understanding of this proposal. In the first place, we are not seeking preferential treatment for this product. We simply feel that it should be given the chance to compete on an equal basis.

The second thing is that we are not even asking for permenent parity. We only what a temporary equalization for five years. At that time, the Congress would be entirely free to undo this act if it does not prove to be in the national interest.

So all we want in this bill is the opportunity for equal treatment of substantially equal products for a trial period during which the impacts can be fairly weighed.

Finally the impacts are not devastating. At the last accounting, this product enjoyed only a 3 percent market share.

I have further details in my prepared statement, but that is the nub of what we are talking about here. It is nothing more than the chance to compete fairly. that is what this country is founded on, and I hope that your subcommittee will see fit to favorably report this legislation.

Thank you.

Correcting Inequity in Tariff Laws

Mr. Ray. Mr. Speaker, I would like to direct the attention of the House to H.R. 1226, a bill introduced on February 2 by Mr. Whitten, Mr. Gibbons, and myself.

The purpose of this measure is to rectify an inequity in the tariff schedule which unfairly penalizes one of America's leading corporations and future employees of this company in the Third District of Georgia.

The Kimberly-Clark Corp. has announced a new $100 million manufacturing plant in LaGrange, Ga. It will be the largest investment by a new industry located in that city's history. It will employ almost 200 persons, almost all of them from the LaGrange, Troup, Columbus, Ga., areas, with a $4 million annual payroll.

The plant will be involved in the manufacture of nonwoven fabrics which will have several uses. Among the end products will be surgical gowns and drapes.

A critical part of these drapes is a polypropylene base sheet. After being manufactured in Georgia, the sheet is shipped to Arizona for cutting and then goes to Mexico for assembly into gowns and drapes. It then comes back into this country for sterilization and transportation to its markets.

The purpose of this legislation is to correct an inequity in the tariff schedule which unfairly penalizes one of America's leading corporations. The Kimberly-Clark Corp. is soon to be an employer in the Third District of Georgia.

As they are presently constituted, the tariff schedules apply a duty rate of 16 cents per pound. In addition, a 24-percent ad valorem tax is added because these products are 100 percent polypropylene. Competitive disposable gowns and drapes receive only a 5.6 percent tariff rate under the law because they are classified as reinforced paper when, in fact they are actually 55 percent polyester and only 45 percent wood pulp.

The situation here is really quite simple. We have two products that are made from laregly similar components and which are put to virtually identical usage. Yet one of them is assessed a significantly higher tariff than the other.

Kimberly-Clark has two options: the passage of this bill, or they could probably challenge this tariff schedule in court and would have an excellent chance of winning. However, this might have the effect of driving their competitors up to the same tariff rate with which Kimberly-Clark is presently saddled.

This would do no one any good. Hospital costs are already out of control, and it makes no sense to further increase them needlessly.

Mr. Speaker, we should be very clear about what is being asked for here. No one is seeking special favors. We are not applying for duty free treatment, simply a duty equalization. Further, our bill is not even permanent; it is limited to a temporary period of 5 years.

I urge the support of my collegues for this proposal. I stand here before the House today, in part, because the jobs and the investments involved here are located in my congressional district. But also there are 12 million Americans, and indirectly this legislation will benefit them. I would also be a poor Congressman if I did not try to protect these jobs, as well as my constituents in the Third District.

But this bill deserves enactment on its merits. It simply reinforces the basic principle of our American free enterprise system. Substantially similar products should be given an equal chance to compete. Our laws should be structured in such a way as to foster and not inhibit competition.

I invite my collegues' support for this measure, and will be pleased to respond to any questions which they may have as deliberation on this proposal continues.

24-184 O—83——44

H.R. 1318

To restrict the importation of copper, copper bearing ores and materials, copper alloys and their so-called basic shapes and forms.

U.S. TRADE REPRESENTATIVE

This is in response to your request for comments on H.R. 1318, a bill to restrict the importation of copper products. This bill would temporarily raise the tariff on a variety of copper products from an average of approximately one cent per pound of copper content to ten cents per pound. It would also remove the authority of the President contained in Title V of the Trade Act of 1974 to grant duty-free treatment on these products under the United States Generalized System of Preferences (GSP).

The U.S. Trade Representative is opposed to this bill. U.S. tariffs on copper products, like most U.S. tariffs, are bound under the General Agreement on Tariffs and Trade (GATT). The United States has agreed not to increase these tariffs above the current level in exchange for similar commitments by our trading partners on their tariffs. Enactment of this legislation would likely subject the United States to claims for compensation in the form of reductions of U.S. tariffs on other products, or retaliation in the form of increased tariffs applied to U.S. exports.

U.S. trade laws do provide an avenue for industries to obtain import relief in the form of additional duties under the antidumping and countervailing duty programs when they can demonstrate that they have been injured by unfairly traded imports. This Administration has established a strong record in the area of trade law enforcement. If the copper industry feels that it can document both unfair trade practices and injury to the U.S. industry, then we would strongly encourage them to consider petitioning for relief under the appropriate statutes.

This office also objects to the provision in H.R. 1318 that would exclude copper products from eligibility for GSP treatment. Title V of the Trade Act of 1974 already provides authority for the President to remove items from GSP treatment if they are determined to be import sensitive, and regulations exist governing the removal of products from GSP. We would encourage the copper industry to make use of these well-established procedures if it wishes to modify the GSP treatment of a product.

The Office of Management and Budget advises that presentation of these comments is consistent with the Administration's program.

DEPARTMENT OF COMMERCE

This in response to your request for the views of this Department on various miscellaneous trade bills. On April 27, 1983, the Administration testified that it objected to enactment of a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

* * * * * * *

H.R. 1318—"To restrict the importation of copper, copper bearing ores and materials, copper alloys and their so-called basic shapes and forms;"

H.R. 1319—"To restrict the importation of iron ore and steel mill products;" and

H.R. 2158—"To increase the column 1 rate of duty on melamine."

We object to enactment of H.R. 1318, H.R. 1319, and H.R. 2158. Congress has provided administrative remedies in the Trade Act of 1974 for situations in which a domestic industry believes it is experiencing serious import injury or threat thereof. We believe these procedures, which involved a thorough investigation by the U.S. International Trade Commission, are the appropriate recourse for the industries affected by H.R. 1318, H.R. 1319, and H.R. 2158.

Tariffs on these products have been subject to concessions made by the United States under the General Agreement on Tariffs and Trade (GATT) and are bound

against increase. Enactment of these bills would increase duties on these products contrary to U.S. obligations under the GATT. Any increase in the duties on these products would render this country subject to claim for compensation or to retaliation by affected countries thus disadvantaging other U.S. industries. We believe it is inappropirate to jeopardize our trading interests in situations where relief has not been found to be warranted through established administrative procedures. Enactment of H.R. 1318, H.R. 1319, and H.R. 2158 would result in an increase in revenues to the United States.

* * * * * * *

We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

The stated purpose of H.R. 1318[1] is to restrict the importation of copper, copper bearing ores and materials and their so-called basic shapes and forms.

Section 2 of the legislation would add two new items to the Appendix to the Tariff Schedules of the United States (TSUS) to impose an additional duty of 10 cents per pound on the copper content of articles provided for in TSUS items 602.25, 602.28, 602.30, 603.49, 603.50, 603.54, 603.55, 612.02 through 612.06 inclusive, 612.15 through 613.15 inclusive, and 613.18. These additional duties would apply to such articles imported from any country and without regard to current market prices for copper. The duties, imposed along with any current duties under the appropriate schedule 6 item, would be assessed until December 31, 1986.

Section 3 of the legislation would amend the Trade Act of 1974 to prohibit the designation of the copper articles which are subject to the legislation as articles eligible for duty-free entry under the Generalized System of Preferences (GSP).[2]

The additional duties would be imposed with respect to articles subject to Section 2 of the Act after the date of enactment of the legislation. As stated above, items added by this legislation would expire after December 31, 1986, unless extended by Congress prior to that date. The amendment to the Trade Act of 1974 would continue to be effective only until the expiration of the GSP program.

DESCRIPTION AND USES

The products affected by the proposed legislation are copper ores and concentrates, unwrought copper, master alloys, and wrought copper. Copper ores and concentrates are the raw materials which are mined, smelted to an impure blister copper and then upgraded to refined copper by fire refining or electrolytic refining. Refined copper is generally cast into wirebars, ingots, or other unwrought shapes. Master alloys are a form of unwrought copper containing alloys of copper with other materials in any proportion, not usefully malleable and commonly used as raw material in the manufacture of other alloys.[3] Unwrought copper is sent to fabricating mills for conversion to sheet, strip, tube, rod, wire, or other semimanufactured products by drawing, rolling, casting, or extruding. These shaped or semimanufactured articles are the "so-called basic shapes and forms" covered by the legislation. This category includes bars, plates, powders, flakes, angles, and other products.

Uses of copper in the United State in 1982 were estimated to be: electrical—54 percent, construction—20 percent, industrial machinery—13 percent, transportation—8 percent, and other uses—5[4] percent. In electrical applications, copper is

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[1] H.R. 1318 is a modification of H.R. 6438, introduced during the 97th session of Congress.

[2] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

[3] See headnote 2(b), subpart C, part 2 of schedule 6 of the TSUS.

[4] Source: U.S. Bureau of Mines.

used in motors, generators, power distribution, industrial controls, communications equipment, and house wiring. In construction applications, copper is used primarily for roofing and plumbing.

TARIFF TREATMENT

The Appendix to this report shows the current rates of duty applicable to the copper products that are covered by this legislation. The future staged reductions in column 1 rates of duty[5] to be applied to such products, as granted in the Tokyo round of the Multilateral Trade Negotiations, will result in final column 1 rates equal to the LDDC rates indicated.

In schedule 6, part 2, subpart C, which includes copper, its alloys, and their so-called basic shapes and forms as defined in proposed section 2(c) of the legislation, column 1 is divided into two subcolumns, 1-a and 1-b. The rates of duty imposed on the subject articles are dependent upon the market price of copper, with the rates in subcolumn 1-a applied when the market price is 24 or more cents per pound and the rates under 1-b applied when that price is under 24 cents per pound. The procedure for determining the market price is set forth in headnote 5 of subpart C. The market price of copper has been well above 24 cents per pound for a number of years.[6]

Import from beneficiary countries under all of the TSUS items listed except 602.25 and 602.30 are eligible for duty-free entry under the GSP.[7] Such eligibility would be removed if the legislation is enacted.

STRUCTURE OF THE DOMESTIC INDUSTRY

The domestic industry includes several types of producers, differing in institutional complexity and ultimate output. Several leading copper-producing companies are integrated and have mining, smelting, refining, and fabricating facilities, as well as marketing organizations. Other large producers mine the ore and process it through the smelting or refining stage, while still other companies mine and process their ore and ship the concentrate to custom plants for smelting and refining.

Mines.—Fifty-three mines yielded copper as the principal product from copper or complex ores and 97 others yielded copper as a byproduct in 1982.[8] The leading 25 mines accounted for about 95% of domestic production; of these, five mines produced 50% of the domestic output. Six companies products two-thirds of the mine output. Principal mining states were Arizona (65%), Utah (17%), Montana (5%), and New Mexico (4%). Employment in copper mines and mills (concentrators affiliated with the mines) was estimated to be 17,000 persons in 1982.

The six leading copper-producing mines in 1982 in order of ouput were as follows:
Mine, county, State and operator:
Utah Copper (Bingham Canyon), Salt Lake, Utah, Kennecott Copper Corp.
Twin Buttes, Pima, Ariz. Anamax Mining Co.
San Manuel, Pinal, Ariz. Magma Copper Corp.
Morenci, Greenlee, Ariz. Phelps Dodge Corp.
Bagdad, Yavapai, Ariz., Cyprus Bagdad Copper Co.
Inspiration, Gila, Ariz., Inspiration Consolidated Copper Co.

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[5]The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential treatment under the Generalized System of Preferences (GSP) or under the "LDDC" column.

The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column numbered 1 applies.

The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[6]The average domestic producer prices of copper, in cents per pound, for the past 10 years were reported by the U.S. Bureau of Mines as follows: 1982=74.0, 1981=85.1, 1980=102.4, 1979=93.3, 1978=65.5, 1977=66.8, 1976=69.7, 1975=64.2, 1974=77.3, and 1973=59.5.

[7]Imports of unwrought copper under item 612.06 which are products of Chile, Peru, or Zambia are not eligible for free entry due to competitive need limitations.

[8]Source of data on domestic industry: U.S. Bureau of Mines and Bureau of Census statitics.

Smelters.—Nine companies operated 15 primary smelters in 1982, located in Arizona, Utah, New Mexico, Texas, and Washington. Forty-three Secondary smelters were operated, mainly in the midwestern and eastern United States.

Refineries.—There were 12 refineries and 10 electrowinning plants operating in 1982. Nearly 30 percent of the refinery capacity was located near primary smelters, with most of the remainder in Texas and the Middle Atlantic States. The leading refined copper producers in 1982 were ASARCO Incorporated, Kennecott Corp., Phelps, Dodge Corp., Magma Copper Corp., Copper Range Co., AMAX, Inc., and Inspiration Consolidated Copper Co. Employment in copper smelters and refineries was estimated to be 9,000 in 1982.

Copper rolling and/or drawing mills.—Dun and Bradstreet figures indicate that there were 142 establishments rolling and drawing wrought copper products in 1982. These establishments were located primarily in the Northeast and North Central regions of the United States. The principal states east and North Central regions of the United States. The principal states where mills were located included Connecticut, Pennsylvania, Michigan, New York, and New Jersey. Total employment for these establishments was 31,004 persons in 1982.

Bureau of Mines estimates for 1982 indicate that 73.0 percent of total refined copper consumed was fabricated into wrought products by 18 wire mills, and 24.6 percent by 45 brass mills.

DOMESTIC PRODUCTION

Data on domestic production, by quantity and value, for the past 5 years are presented in table 1.[9]

U.S. IMPORTS

Data on imports, by quantity and value, for the past 5 years are listed in table 1. The principal sources of U.S. imports in 1982 were Chile (33 percent), Canada (17 percent), West Germany (8 percent), Japan (8 percent), and Mexico (7 percent).

Data on imports under the GSP, by quantity and value, for the past 5 years are listed in table 2. Table 2 also compares GSP imports to total imprts.

U.S. EXPORTS

Data on exports, by quantity and value, for the past 5 years are listed in table 1. The principal markets for U.S. exports in 1982 were Japan (31 percent), Canada (11 percent), Netherlands (9 percent), Mexico (7 percent), and U.S.S.R. (6 percent).

APPARENT U.S. CONSUMPTION

Data on apparent U.S. consumption, by quantity and value, for the past 5 years are contained in table 1.

POTENTIAL ANNUAL GAIN OF REVENUE

Based on the 1982 level of imports of the subject articles, it is estimated that the enactment of this legislation would be likely to result in a revenue increase of approximately $138.8 million in the first year (based on the level of 1982 imports from all sources), as a result of the additional duties. However, the projected gain in revenues may be lower than this figure if the level of imports drops as a result of the additional duties being imposed.

The enactment of Section 3 of this legislation, which would prohibit the designation of copper and copper products as articles eligible for duty-free entry under the GSP and thus apply column 1 duty rates to these articles, could potentially increase revenues by an additional amount. Based on the 1982 level of GSP imports and applying a 5.7 percent ad valorem duty rate, the average rate for copper and copper products, the additional annual potential revenue increase would be approximately $11.9 million. This figure would also decrease if import levels drop.

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[9] It should be noted, as to data in that table, that the use of more than one source for information on production has resulted in the aggregation of statistics on production of some firms with those on shipments of other firms. The table thus presents this data in a column entitled "U.S. producers' shipments."

TECHNICAL COMMENTS

There appears to be a typographical error in the article description for proposed new item 906.70 wherein "602.49" should be corrected to read "603.49". It should be noted that articles not provided for in the enumerated schedule 6 provisions also may contain copper, but the additional duties would be inapplicable. (See, *e.g.*, item 601.66, "other metal-bearing ores"). It should also be noted that the draft items contain expiration dates of December 31, 1986, while section 4 states that the expiration date is December 31, 1987.

To ease administration of the provisions, it is suggested that the provisions take effect on the fifteenth day following the date of enactment.

GATT CONSIDERATIONS

Since the effect of the enactment of this legislation would be to raise existing tariff levels on imported copper, it would be inconsistent with certain tariff concessions granted by the United States under the General Agreement on Tariffs and Trade (GATT) and could result in claims for compensation by contracting parties which may be adversely affected by this increase in duty rates.

APPENDIX

Rates of duty currently applicable to copper ores and products, based on TSUSA (1983).

TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1984)

SCHEDULE 6. - METALS AND METAL PRODUCTS
Part 1. - Metal-Bearing Ores and Other Metal-Bearing Materials

Page 453

6 - 1 --
602.10 - 602.30

GSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1	LDDC	2
			Any of the foregoing ores bearing lead, zinc, or copper:				
A*	602.10		All lead-bearing ores	.....	0.75¢ per lb. on lead content		1.5¢ per lb. on lead content
			Lead from ore to be initially treated at a:				
		11	Lead plant (dutiable lead content)	Lb. 1/			
		21	Zinc plant (dutiable lead content)	Lb. 1/			
		31	Copper plant (dutiable lead content)	Lb. 1/			
		41	Other plant (dutiable lead content)	Lb. 1/			
A	602.20		All zinc-bearing ores	.....	0.48¢ per lb. on zinc content 2/	0.3¢ per lb. on zinc content 2/	1.67¢ per lb. on zinc content
			Zinc from ore to be initially treated at a:				
		12	Lead plant (dutiable zinc content)	Lb. 1/			
		22	Zinc plant (dutiable zinc content)	Lb. 1/			
		32	Copper plant (dutiable zinc content)	Lb. 1/			
		42	Other plant (dutiable zinc content)	Lb. 1/			
			All copper-bearing ores:				
	602.23	00	For an aggregate amount not to exceed 15,000 tons of copper content in ores which contain by weight not over 15 percent copper and which are entered in any calendar year for use as a flux or sulphur reagent in copper smelting or converting	..... copper content.. Lb.	Free of duty on copper content		Free of duty on copper content
			Other:				
A	602.28		When, under the procedures set forth in headnote 5 of part 2C of this schedule, the market price of copper is considered to be below 24 cents per pound	.....	0.9¢ per lb. on copper content	0.8¢ per lb. on copper content	4¢ per lb. on copper content
	602.29		If products of Cuba	.....	Free of duty on copper content (a)		
	602.30		Other	.....	Free		4¢ per lb. on copper content
			Copper from ore to be initially treated at a:				
		13	Lead plant (dutiable copper content)	Lb. 1/			
		23	Zinc plant (dutiable copper content)	Lb. 1/			
		33	Copper plant (dutiable copper content)	Lb. 1/			
		43	Other plant (dutiable copper content)	Lb. 1/			

(a) = Suspended. See general headnote 3(b).

1/ Report value only of stated metal content.

2/ Duty temporarily suspended. See item 911.00 in part 1B, Appendix to the Tariff Schedules and general headnote 3(d)(ii).

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see general headnote 3(c).

(2nd Supp. 4/8/83)

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SCHEDULE 6. - METALS AND METAL PRODUCTS
Part 1. - Metal-Bearing Ores and Other Metal-Bearing Materials

1 --
1.05 - 603.50

Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1	LDDC	2
		Other metal-bearing materials of a type commonly used for the extraction of metal or as a basis for the manufacture of chemical compounds:				
603.05	00	Aluminum dross and skimmings	Lb.	Free		Free
603.10	00	Antimony, needle or liquated	Lb.	0.1c per lb.		0.25c per lb.
603.15	00	Ferrous scale	Ton.	33c per ton	30c per ton	75c per ton
603.20	00	Flue dust or fume containing, by weight, over 55 percent of cadmium and not over 15 percent of any one or combination of the metals lead, zinc, or copper	Lb. v	Free		Free
		cadmium content	Lb.			
603.25	00	Lead dross	Lb. v	0.98c per lb. on lead content	0.9c per lb. on lead content	2.125c per lb. on lead content
		lead content	Lb.			
603.30	00	Zinc dross and zinc skimmings	Lb. v	0.67c per lb. 1/	0.6c per lb. 1/	1.5c per lb.
		zinc content	Lb.			
		Other:				
603.40	00	Materials in chief value of molybdenum	Lb.	8c per lb. on molybdenum content + 2.5% ad val.	6c per lb. on molybdenum content + 1.9% ad val.	50c per lb. on molybdenum content + 15% ad val.
		molybdenum content	Lb. v			
603.45	00	Materials in chief value of tungsten	Lb.	10c per lb. on tungsten content + 4.8% ad val.		60c per lb. on tungsten content + 40% ad val.
		tungsten content	Lb. v			
603.49		Materials, other than the foregoing, containing, by weight, over 10 percent of any one of the metals copper, lead, or zinc, and to be initially treated at a copper, lead, or zinc plant:				
		When, under the procedures set forth in headnote 5 of part 2C of this schedule, the market price of copper is considered to be below 24 cents per pound		0.85c per lb. on copper content + 0.62c per lb. on lead content + 0.58c per lb. on zinc content 2/	0.7c per lb. on copper content + 0.5c per lb. on lead content + 0.5c per lb. on zinc content 2/	4c per lb. on copper content + 1.5c per lb. on lead content + 1.67c per lb. on zinc content
603.50		Other		0.54c per lb. on copper content + 0.32c per lb. on lead content + 0.48c per lb. on zinc content 2/	0.32c per lb. on copper content + 0.3c per lb. on lead content + 0.3c per lb. on zinc content 2/	4c per lb. on copper content + 1.5c per lb. on lead content + 1.67c per lb. on zinc content
	10	Lead content	Lb. 3/			
		dutiable lead content	Lb. v			
		Zinc content:				
	20	Of zinc fume	Lb. 3/			
		dutiable zinc content	Lb. v			
	30	Other	Lb. 3/			
		dutiable zinc content	Lb. v			
	40	Copper content	Lb. 3/			
		dutiable copper content	Lb. v			
	50	Gold content	Oz.troy 4/			
	60	Silver content	Oz.troy 4/			

1/ Duty temporarily suspended. See item 911.01 in part 1B, Appendix to the Tariff Schedules and general headnote 3(d) (ii).
2/ Duty on zinc content temporarily suspended. See item 911.02 in part 1B, Appendix to the Tariff Schedules and general headnote 3(d)(ii).
3/ Assay quantity without deductions.
4/ Report value only on stated metal content.

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see general headnote 3(c).

(2nd Supp. 4/8/83)

GSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1	LDDC	2
			Other metal-bearing materials, etc. (con.):				
			Other (con.):				
			Materials, other than the foregoing, containing, by weight, over 5 troy ounces of gold per short ton, or over 100 troy ounces of precious metals per short ton:				
A	603.54		When, under the procedures set forth in headnote 5 of part 2C of this schedule, the market price of copper is considered to be below 84 cents per pound	.....	0.8¢ per lb. on copper content + 0.57¢ per lb. on lead content + 0.53¢ per lb. on zinc content 1/	0.6¢ per lb. on copper content + 0.4¢ per lb. on lead content + 0.4¢ per lb. on zinc content 1/	4¢ per lb. on copper content + 1.5¢ per lb. on lead content + 1.67¢ per lb. on zinc content
A	603.55		Other	.....	0.4¢ per lb. on copper content + 0.37¢ per lb. on lead content + 0.33¢ per lb. on zinc content 1/	Free	4¢ per lb. on copper content + 1.5¢ per lb. on lead content + 1.67¢ per lb. on zinc content
		10	Lead content (dutiable lead content)	Lb.			
		20	Zinc content (dutiable zinc content)	Lb.			
		30	Copper content (dutiable copper content)	Lb.			
			Precious metal content:				
		40	Gold	Oz.troy 2/			
		50	Silver	Oz.troy 2/			
		60	Other	Oz.troy 2/			
	603.60	00	Materials, other than the foregoing, containing, by weight, over 10 percent of nickel	Lb.	Free		Free
	603.62	00	Materials, other than the foregoing, which consist of slag containing by weight, over 40 percent titanium, and which if containing over 2 percent by weight of copper, lead, or zinc are not to be treated for the recovery thereof	Lb.	Free		Free
	603.65		Materials, other than the foregoing, which are residues not advanced in value or condition by any means, and which if containing over 2 percent by weight of copper, lead, or zinc are not to be treated for the recovery thereof	.....	Free		Free
		10	Vanadium bearing materials	Lb.			
			vanadium pentoxide content	Lb. v			
		30	Other (specify kind)	Lb.			
		60	Gold content	Oz.troy 2/			
		60	Silver content	Oz.troy 2/			
	603.67	00	Materials, other than the foregoing, which are synthetic tantalum-columbium concentrates	Lb.	Free		30% ad val.
A	603.70		Other	.....	0.3% ad val. 3/	3% ad val. 3/	30% ad val.
		10	Synthetic rutile	Lb.			
		60	Other	Lb.			

1/ Duty on zinc content temporarily suspended. See item 911.03 in part 1B, Appendix to the Tariff Schedules and general headnote 3(d)(ii).

2/ Report value only of stated metal content.

3/ Duty on copper scale temporarily suspended. See item 911.05 in part 1B, Appendix to the Tariff Schedules and general headnote 3(d)(ii).

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see general headnote 3(c).

(1st supp. 2/11/83)

GSP	Item	Stat. Suf-fix	Articles	Unit of Quantity	Rates of Duty 1-a 1	1-a LDDC	1-b 1	1-b LDDC	2
			Unwrought copper:						
A	612.02		Cement copper and copper precipitates	.....	1.7% ad val. on the value of the copper content		1¢ per lb. on copper content (see headnote 6)		6% ad val.
		20	Copper content	Lb.					
		40	Gold content	Oz. troy					
		60	Silver content	Oz. troy					
A*	612.03		Blach copper, blister copper, and anode copper	.....	1.2% ad val. on the value of the copper content	1% ad val. on the value of the copper content	0.85¢ per lb. on 99.6% of the copper content	0.7¢ per lb. on 99.6% of the copper content	6% ad val.
		30	Blach copper, blister copper, and anode copper	Lb. v					
			dutiable copper content	Lb.					
		60	Gold content	Oz. troy					
		80	Silver content	Oz. troy					
A	612.05	00	Nickel silver	Lb. v	9.7% ad val.	4.6% ad val.	0.8¢ per lb. on copper content + 4.3% ad val.	0.7¢ per lb. on copper content + 3.5% ad val.	26% ad val.
			copper content	Lb.					
A*	612.06		Other	.....	1% ad val.		0.75¢ per lb. on copper content		6% ad val.
			Alloyed:						
		10	Beryllium copper	Lb. v					
			copper content	Lb.					
		30	Other	Lb. v					
			copper content	Lb.					
		60	Other	Lb.					
			Copper waste and scrap:						
A	612.08	00	Nickel silver	Lb. v	4.2% ad val.	2.6% ad val.	0.7¢ per lb. on 99.6% of the copper content + 3.5% ad val.	0.6¢ per lb. on 99.6% of the copper content + 2% ad val.	26% ad val.
			copper content	Lb.					
A	612.10		Other	.....	0.8% ad val.	Free	0.7¢ per lb. on 99.6% of the copper content	0.6¢ per lb. on 99.6% of the copper content	6% ad val.
		20	Unalloyed copper content	Lb.					
			Alloyed:						
		40	Brass	Lb.					
			copper content	Lb. v					
		60	Other	Lb.					
			copper content	Lb. v					
	612.11		If the product of Cuba (except alloy waste and scrap)	.....	Free (a)		Free (a)		

(a) = Suspended. See general headnote 3(k).

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see general headnote 3(c).

C & P	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1-a 1	1-a LDDC	1-b 1	1-b LDDC	2
			Master alloys:						
A	612.15	00	Phosphor-copper	Lb.....v Lb.	2.6% ad val.		1c per lb. on copper content + 1.5c per lb.		12% ad val.
A	612.17	00	Manganese-copper	Lb.....	0.7c per lb. + 6% ad val.	5.3% ad val.	0.6c per lb. + 4.8% ad val.	0.5c per lb. + 3.5% ad val.	30% ad val.
A	612.20		Other	.....	8.3% ad val.	6% ad val.	0.5c per lb. + 7.8% ad val.	0.4c per lb. + 5.5% ad val.	28% ad val.
		10	Beryllium copper	Lb.					
		20	Other	Lb.					
			Bars, plates, sheets, and strips, all the foregoing which are wrought, of copper, whether or not cut, pressed, or stamped to nonrectangular shapes:						
			Not cut, pressed, or stamped to nonrectangular shapes:						
			Copper, other than alloys of copper:						
A	612.30	00	Clad plates and sheets	Lb.....	9.8% ad val.	6.7% ad val.	0.5c per lb. + 9.3% ad val.	0.4c per lb. + 6.5% ad val.	30% ad val.
			Other:						
A	612.31		Bars and sheets; and strips in coils	.....	1.3% ad val.	1% ad val.	1.3c per lb.	1c per lb.	7.5% ad val.
		20	Bars	Lb.					
		40	Sheets	Lb.					
		60	Strips in coils	Lb.					
A	612.32	00	Plates, and strips in straight lengths	Lb.....	8.2% ad val.	4.7% ad val.	0.5c per lb. + 7.8% ad val.	0.3c per lb. + 4.5% ad val.	40% ad val.
			Nickel silver:						
A	612.34	00	Clad plates and sheets	Lb.....	9.4% ad val.	6.5% ad val.	0.5c per lb. + 9.3% ad val.	0.4c per lb. + 6.5% ad val.	30% ad val.
			Other:						
A	612.35	00	Bars, sheets, and strips	Lb.....v Lb.	10.8% ad val.	6.2% ad val.	0.7c per lb. on copper content + 10.5% ad val.	0.4c per lb. on copper content + 6% ad val.	32% ad val.
A	612.36	00	Plates	Lb.....	8.7% ad val.	6.2% ad val.	0.5c per lb. + 8.5% ad val.	0.4c per lb. + 6% ad val.	40% ad val.
			Brass:						
A	612.38	00	Clad plates and sheets	Lb.....	9.7% ad val.	6.7% ad val.	0.5c per lb. + 9.3% ad val.	0.4c per lb. + 6.5% ad val.	30% ad val.

Note: For explanation of the symbol "A" or "A*" in the column entitled "CSP", see

GSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty				
					1-A		1-B		
					1	LDDC	1	LDDC	2
			Bars, plates, sheets, and strips, all the foregoing which are wrought, of copper, whether or not cut, pressed, or stamped to nonrectangular shape (con.):						
			Not cut, pressed, or stamped to nonrectangular shape (con.):						
			Brass (con.):						
A	612.30		Other	.....	2% ad val.	1.9% ad val.	0.9¢ per lb. on copper content + 0.9¢ per lb.		9% ad val.
		20	Bars	lb. v					
			copper content	lb.					
		40	Plates	lb. v					
			copper content	lb.					
		60	Sheets	lb. v					
			copper content	lb.					
			Strips:						
		82	Under 1/16 inch in thickness	lb. v					
			copper content	lb.					
		86	Other	lb. v					
			copper content	lb.					
			Cupro-nickel:						
A	612.40	00	Clad plates and sheets	lb.	9.8% ad val.	6.7% ad val.	0.5¢ per lb. + 9% ad val.	0.4¢ per lb. + 6% ad val.	38% ad val.
A	612.41	00	Other	lb.	8.8% ad val.	6.3% ad val.	0.5¢ per lb. + 8.5% ad val.	0.4¢ per lb. + 6% ad val.	48% ad val.
			Other:						
A	612.43	00	Clad plates and sheets	lb.	9.7% ad val.	6.7% ad val.	0.5¢ per lb. + 9.3% ad val.	0.4¢ per lb. + 6.5% ad val.	38% ad val.
			Other:						
A	612.46		Bars and sheets	.....	1.7% ad val.		0.9¢ per lb. on copper content + 0.9¢ per lb.		9% ad val.
		10	Beryllium copper	lb. v					
			copper content	lb.					
		30	Other	lb. v					
			copper content	lb.					
A	612.65		Plates and strips	.....	6.6% ad val.	5.1% ad val.	0.6¢ per lb. + 6.3% ad val.	0.5¢ per lb. + 5% ad val.	49% ad val.
		10	Beryllium copper	lb.					
		20	Other	lb.					

Note: For explanation of the symbol "6" or "A" in the column entitled "GSP", see general headnote 3(c).

CSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1-a		1-b		2
					1	LDDC	2	LDDC	
			Bars, plates, sheets, and strips, all the foregoing which are wrought, of copper, whether or not cut, pressed, or stamped to nonrectangular shapes (coo.):						
			Cut, pressed, or stamped to nonrectangular shape:						
A	612.50	00	Copper, other than alloys of copper; nickel silver and cupro-nickel	Lb.....	8.9% ad val.	6.3% ad val.	0.5c per lb. + 8.5% ad val.	0.4c per lb. + 6% ad val.	48% ad val.
A	612.52	00	Other	Lb.....	6.7% ad val.	5.2% ad val.	0.6c per lb. + 6% ad val.	0.5c per lb. + 4.5% ad val.	49% ad val.
			Copper powders and flakes:						
A	612.55	00	Flakes	Lb.....	3.6% ad val.	3% ad val.	5.1c per lb.	4.5c per lb.	12% ad val.
A	612.56	00	Powders	Lb.....	7.2% ad val.	5.6% ad val.	0.6c per lb. + 6.8% ad val.	0.5c per lb. + 5% ad val.	49% ad val.
			Wrought rods, of copper:						
A	612.60	00	Copper, other than alloys of copper	Lb.....	1.3% ad val.	1% ad val.	1.3c per lb.	1c per lb.	7% ad val.
A	612.61	00	Nickel silver	Lb.....v	11.4% ad val.	7.3% ad val.	0.7c per lb. on copper content + 11% ad val.	0.5c per lb. on copper content + 7% ad val.	32% ad val.
			copper content..	Lb.					
A	612.62		Brass	.....	2.6% ad val.	2.2% ad. val	0.9c per lb. on copper content + 0.9c per lb.	0.8c per lb. on copper content + 0.8c per lb.	9% ad val.
		05	Low fuming brazing rod	Lb v					
			copper content..	Lb.					
		90	Other	Lb. v					
			copper content..	Lb.					
A	612.63	00	Cupro-nickel	Lb.....	8.7% ad val.	6.2% ad val.	0.5c per lb. + 8.5% ad val.	0.4c per lb. + 6% ad val.	48% ad val.
A	612.64		Other	.....	1.7% ad val.	1.6% ad val.	0.9c per lb. on copper content + 0.9c per lb.		9% ad val.
		10	Beryllium copper	Lb. v					
			copper content..	Lb.					
		20	Other	Lb. v					
			copper content..	Lb.					

Note: For explanation of the symbol "A" or "A*" in the column entitled "CSP", see general headnote 3(c).

GSP	Item	Stat. Suffix	Articles	Units of Quantity	Rates of Duty 1-a 1	1-a LDDC	1-b 2	1-b LDDC	2
			Wire, of copper:						
			Nickel silver:						
A	612.70	00	Not metal coated or plated..... copper content..	Lb.....v Lb.	11.5% ad val.	7.3% ad val.	0.7¢ per lb. on copper content + 11.1% ad val.	0.5¢ per lb. on copper content + 7.2% ad val.	32% ad val.
A	612.71	00	Metal coated or plated..... copper content..	Lb.....v Lb.	11.5% ad val.	7.4% ad val.	0.7¢ per lb. on copper content + 0.03¢ per lb. + 11% ad val.	0.5¢ per lb. on copper content + 0.02¢ per lb. + 7% ad val.	32% ad val.
			Other:						
A	612.72		Not metal coated or plated.....	.....	0.4¢ per lb. on copper content + 5% ad val.	4% ad val.	0.8¢ per lb. on copper content + 4.8% ad val.	0.6¢ per lb. on copper content + 3.5% ad val.	24% ad val.
		20	Brass..... copper content..	Lb. v Lb.					
		40	Alloys of copper in which tin is the principal alloying element..... copper content..	Lb. v Lb.					
		60	Other..... copper content..	Lb. v Lb.					
A	612.73	00	Metal coated or plated..... copper content..	Lb.....v Lb.	5.5% ad val.	4.4% ad val.	0.8¢ per lb. on copper content + 0.04¢ per lb. + 5% ad val.	0.7¢ per lb. on copper content + 0.03¢ per lb. + 4% ad val.	28% ad val.
			Angles, shapes and sections, all the foregoing which are wrought, of copper:						
A	612.80	00	Copper, other than alloys of copper; nickel silver and cupro-nickel.....	Lb.....	8.9% ad val.	6.3% ad val.	0.5¢ per lb. + 8.5% ad val.	0.4¢ per lb. + 6% ad val.	48% ad val.
A	612.81	00	Brass angles and channels..... copper content..	Lb.....v Lb.	3.7% ad val.	3.2% ad val.	0.9¢ per lb. on copper content + 2.5¢ per lb.	0.8¢ per lb. on copper content + 2¢ per lb.	17% ad val.
A	612.82	00	Other.....	Lb.....	6.8% ad val.	5.2% ad val.	0.4¢ per lb. + 6% ad val.	0.5¢ per lb. + 4.5% ad val.	49% ad val.

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see general headnote 3(c).

GSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty 1-a 1	1-a LDDC	1-b 2	1-b LDDC	2
			Pipes and tubes and blanks therefor, pipe and tube fittings, all the foregoing of copper:						
			Pipes and tubes and blanks therefor:						
			Copper, other than alloys of copper:						
A	613.02		Seamless	.....	2.2% ad val.	1.5% ad val.	2c per lb.	1.4c per lb.	13% ad val.
		10	With an outside diameter of 1/4 inch to 5/8 inch, inclusive	Lb.					
		90	Other	Lb.					
A	613.03	00	Brazed	Lb.	2.3% ad val.	2.1% ad val.	2.9c per lb.	2.7c per lb.	13% ad val.
A	613.04	00	Other	Lb.	8.2% ad val.	5% ad val.	0.5c per lb. + 8% ad val.	0.3c per lb. + 5% ad val.	47% ad val.
A	613.06	00	Nickel silver	Lb.	8.7% ad val.	6.2% ad val.	0.5c per lb. + 8.5% ad val.	0.4c per lb.+ 6% ad val.	45.5% ad val.
A	613.08	00	Cupro-nickel	Lb.	6.5% ad val.	5.1% ad val.	0.6c per lb. + 6% ad val.	0.5c per lb. + 4.5% ad val.	49% ad val.
			Other:						
A	613.10	00	Seamless	Lb.....v Lb.	1.4% ad val.		0.9c per lb. on copper content + 0.9c per lb.		10% ad val.
			copper content..						
A	613.11	00	Brazed	Lb.....v Lb.	0.7c per lb. on copper content + 2.6c per lb.	0.6c per lb. on copper content + 2.3c per lb.	0.9c per lb. on copper content + 2.6c per lb.	0.8c per lb. on copper content + 2.3c per lb.	4c per lb. on copper content + 12c per lb.
			copper content..						
A	613.12	00	Other	Lb.	8.1% ad val.	6.5% ad val.	0.6c per lb. + 6% ad val.	0.4c per lb. + 4.5% ad val.	49% ad val.
			Fittings:						
	613.15	00	Copper, other than alloys of copper; nickel silver and cupro-nickel	Lb.	11.2% ad val.		0.75c per lb. + 11% ad val.		44% ad val.
	613.16	00	If Canadian article and original motor-vehicle equipment (see headnote 7, part 6B, schedule 6)	Lb.	Free		Free		
	613.18	00	Other	Lb.	5.6% ad val.	3.2% ad val.	0.5c per lb. + 5.3% ad val.	0.3c per lb. + 3% ad val.	49% ad val.
	613.19	00	If Canadian article and original motor-vehicle equipment (see headnote 7, part 6B, schedule 6)	Lb.	Free		Free		

Note: For explanation of the symbol "A" or "A*" in the column entitled "GSP", see general headnote 3(c).

Table 1. --U.S. producers' shipments, exports, imports, and apparent consumption of copper ore and copper products covered by H.R. 1310 1978-1982

Type of commodity/ year	U.S. producers' shipments 1/	Exports	Imports	Apparent consumption	Ratio (percent) of imports to consumption
	Quantity				
	1,000 short tons				percent
Ores:					
1978	1,496	29	28	1,495	1.9
1979	1,591	55	34	1,570	2.2
1980	1,302	125	58	1,235	4.7
1981	1,695	173	46	1,568	2.9
1982	1,251	218	135	1,168	11.6
Unwrought (including master alloys):					
1978	2,019	121	543	2,441	22.2
1979	2,178	98	256	2,336	11.0
1980	1,859	24	523	2,358	22.2
1981	2,187	42	406	2,551	15.9
1982	1,880e	42	400	2,238	17.9
Wrought:					
1978	3,087	51	195	3,231	6.0
1979	3,344	84	168	3,428	4.9
1980	2,912	119	112	2,905	3.9
1981	2,994	90	204	3,108	6.6
1982	2,619e	85	159	2,693	5.9
	Value				
	1,000 dollars				percent
Ores:					
1978	1,990,323	27,409	29,572	1,992,486	1.5
1979	2,960,676	75,569	47,929	2,933,036	1.6
1980	2,666,931	218,849	73,355	2,521,437	2.9
1981	2,886,440	214,785	59,779	2,731,434	2.2
1982	1,859,558	221,582	145,097	1,783,073	8.1
Unwrought (including master alloys):					
1978	2,644,890	155,153	624,435	3,113,672	20.1
1979	4,064,148	156,832	435,813	4,343,129	10.0
1980	3,807,232	50,625	1,036,012	4,792,619	21.6
1981	3,722,274	72,948	663,029	4,312,355	15.4
1982	2,782,400	62,283	555,050	3,275,167	16.9
Wrought:					
1978	9,476,442	154,687	329,478	9,651,233	3.4
1979	10,829,276	268,489	359,461	10,920,248	3.3
1980	10,547,584	383,188	296,335	10,460,731	2.8
1981	10,478,003	314,970	431,951	10,594,984	4.1
1982	7,992,263	259,390	331,786	8,064,659	4.1

1/ Ores (Quantity & Value) - Bureau of Mines Minerals Yearbook - Table 4
Unwrought (Quantity) - Copper Development Association Annual Data Report Table 1, Item 13
Wrought (Quantity) - U.S. Industrial Outlook: Shipments of Copper-Base Mill and Foundry products
Unwrought (Value) - Quantity x price (Bureau of Mines Minerals Yearbook - Table 1)
Wrought (Value) - Quantity x export unit value
e - Estimated

Table 2. —Imports under the Generalized System of Preferences (GSP) in 1978-1982, and these imports as a percent of total imports by major product categories covered by H.R. 1318

Product group/ year	GSP imports	Total imports	GSP imports as percent total imports
	Quantity		
	1,000 short tons		percent
Ores			
1978	12	28	42.9
1979	31	34	91.2
1980	1	58	1.7
1981	1	46	2.2
1982	4	135	3.0
Master Alloys			
1978	1/	1/	-
1979	1/	1/	-
1980	1/	1/	-
1981	1/	1/	-
1982		1/	-
Unwrought			
1978	85	542	15.7
1979	20	256	7.8
1980	107	523	20.5
1981	81	405	20.0
1982	122	399	30.6
Wrought			
1978	24	195	12.3
1979	23	168	13.7
1980	14	112	12.5
1981	22	204	10.8
1982	28	159	17.6
	Value		
	1,000 dollars		percent
Ores			
1978	12,110	29,572	41.0
1979	42,981	47,929	89.7
1980	1,845	73,355	2.5
1981	1,368	59,779	2.3
1982	2,924	145,097	2.0
Master Alloys			
1978	-	978	-
1979	-	1,[illegible]	-
1980	125	657	19.0
1981	50	765	6.5
1982	63	2,165	2.9
Unwrought			
1978	94,823	623,457	15.2
1979	28,590	434,723	6.6
1980	199,600	1,035,355	19.3
1981	126,131	662,264	19.0
1982	159,141	552,885	28.8
Wrought			
1978	34,576	329,478	10.5
1979	40,065	359,461	11.1
1980	29,880	296,335	10.1
1981	40,294	431,951	9.3
1982	46,837	331,786	14.1

1/ Less than 500 short tons.

[NONOFFICIAL TRANSLATION]

EMBASSY OF CHILE,
Washington, D.C., May 1983.

Hon. SAM M. GIBBONS,
Chairman, Commerce Subcommittee,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am again writing you in reference to Draft Law "H.R. 1318", sponsored by Representative Robert Davis, which proposes to establish customs duties on copper imports.

As you know, my country is one of the principal world producers of that metal, with exports to the U.S. markets reaching 51% of our total shipments.

In reference to overall bilateral commerce between U.S. and Chile, I should like to point out that my country has, for many years, been bearing the brunt of an unfavorable Commercial Balance, our U.S. imports reaching US$1.631 billion in 1981 and US$916 million in 1982, while our U.S. exports totaled only US$614 million in 1981 and US$790 million in 1982.

Given this scenario, the highly negative effects that the adoption of restrictive measures on copper imports would have for our country, and on our bilateral commerical relations, cannot have escaped your notice, particularly in view of the consequences of the economic recession, the imbalance in our Balance of Payments, the drop in copper prices on the world market and the financial difficulties and external debts of all Latin American countries in general and Chile in particular.

Protectionist measures such as those proposed in this legislation do not facilitate the road to the long-awaited economic recovery which the United States has now begun after a severe recession. On the contrary, they endanger the very concept of a free market.

Finally, as the aforementioned Draft Law is being considered by the Commerce Subcommittee of the Ways and Means Committee, I have wanted to bring this information to your attention in the assurance that it would be used in the evaluation that would be made analyzing a draft law of this nature, a law which, in the case of my country, would unjustly establish difficulties for commerce between our two countries.

I should like to avail myself of this opportunity to renew my assurances to you of my highest and most distinguished consideration.

ENRIQUE VALENZUELA, *Ambassador.*

STATEMENT OF HON. ROBERT W. DAVIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. Chairman, I want to express my appreciation to you for scheduling these hearings on important trade-related measures. I believe the fact that you have placed H.R. 1318 on the agenda emphasizes the seriousness of the problems affecting the domestic copper industry.

Several factors have led to the situation currently facing the copper industry. First environmental regulations are so restrictive as to prevent domestic copper producers from taking responsible, cost-effective actions to meet air quality standards. Second, the rise in the value of the dollar has contributed to placing U.S. copper at a competitive disadvantage. Third, the worldwide recession has depressed international demand for copper. Fourth, partly a result of international financial institutions' policies to which the Untied States is a party and partly a result of developing countries' domestic economic policies, copper production in several developing countries has continued to expand in the face of reduced worldwide demand for copper.

Some of these factors more appropriately can and should be addressed by other committees of the House. However, to the extent that foreign governments subsidize the production of copper despite reduced demand for and a glut of supply, and to the extent that U.S. borders are virtually insensitive to imports of this commodity, we must address the weaknesses or our present tariff laws.

It is generally acknowledged that the break even price for copper production in the United States is around 85 cents to one dollar per pound. Yet, since the beginning of 1982, copper producers have been operating in the red. In fact, the average price of copper last year was 65 cents a pound, the lowest real price copper has drawn since the Depression. As a result, copper producers in the United States are operating at only about 55 percent of their capacity, causing tremendous unemploy-

ment in the industry for the past two years. This unemployment, in effect, has been at the expense of the policies of other nations in the world, which have continued full production, even at a loss. Thus, the United States has absorbed the unemployment caused by reduced worldwide copper demand and prices, while other nations have continued at full production, and consequently, full employment in their copper industries.

Our tariff laws can meet this problem head-on, but they do not. There is no reason that the United States should pay the cost of keeping employment and production going in other countries. Yet, copper ores enter the U.S. virtually duty-free, even in some cases when these ores come from Column Two countries. The highest tariff currently imposed is only four cents per pound of copper content. Copper in its so-called basic shapes and forms is hardly any more fairly treated, either. In fact, for these forms of copper, the tariff schedules are subdivided to provide a slightly higher tariff when the price of copper falls below a certain threshold. That threshold, incredibly, is 24 cents a pound. Since copper has not sold at 24 cents in over 30 years the subdivision of Column One tariff schedules, while laudible in intent, is hollow in practice.

While H.R. 1318 should not be perceived as an ultimate solution to the problems afflicting the copper industry in the United States, it does more realistically address today's realities as they pertain to imports of subsidized copper. By imposing a temporary tariff of ten cents per pound of copper content on ores and copper in its so-called basic shapes and forms, this legislation not only will help bring imported copper more closely in line with its actual market value, but it at least partially will alleviate the problem of U.S. unemployment caused by other nation's economic policies.

In conclusion, Mr. Chairman, the philosophy of maintaining free and open competition among nations is practicable only so long as nations all play by the same rules. It is evident, however, that the United States more often than not ends up on the wrong end of the stick. H.R. 1318 will provide a temporary remedy to such an inequity while other more permanent solutions can be reached.

MRM INDUSTRIES,
Meriden, Conn., April 20, 1983.

Reference: House of Representatives bill No. 1318 introduced by Representative Davis.

Hon. SAM H. GIBBONS,
Chairman, Subcommittee on Trade, Ways and Means Committee, Washington, D.C.

DEAR CONGRESSMAN: MRM wishes to record it's opposition to Bill #1318. This bill would result in higher domestic copper prices, which will increase protection costs and might make our product uncompetitive, as compared to foreign fabricators. It might put people out of work, and finally; the cost will be borne by the United States Consumers.

Sincerely,

M. A. JABBAR MALIK,
President and Chief Executive Officer.

H.R. 1319

To restrict the importation of iron and steel mill products.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27, 1983, the Administration testified that it objected to enactment of a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

* * * * * * *

H.R. 1318—"To restrict the importation of copper, copper bearings ores and materials, copper alloys and their so-called basic shapes and forms;"

H.R. 1319—"To restrict the importation of iron ore and steel mill products;" and

H.R. 2158—"To increase the column 1 rate of duty on melamine."

We object to enactment of H.R. 1318, H.R. 1319, and H.R. 2158. Congress has provided administrative remedies in the Trade Act of 1974 for situations in which a domestic industry believes it is experiencing serious import injury or threat thereof. We believe these procedures, which involve a thorough investigation by the U.S. International Trade Commission, are the appropriate recourse for the industries affected by H.R. 1318, 1319, and H.R. 2158.

Tariffs on these products have been subject to concessions made by the United States under the General Agreement on Tariffs and Trade (GATT) and are bound against increase. Enactment of these bills would increase duties on these products contrary to U.S. obligations under the GATT. Any increase in the duties on these products would render this country subject to claim for compensation or to retaliation by affected countries thus disadvantaging other U.S. industries. We believe it is inappropriate to jeopardize our trading interests in situations where relief has not been found to be warranted through established administrative procedures. Enactment of H.R. 1318, H.R. 1319, and H.R. 2158 would result in an increase in revenues to the United States.

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We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

H.R. 1410

To suspend for 2 years the duty on parts of spindle motors suitable for computer memory disk drives.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27, 1983, the Administration testified that it objected to enactment of a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

* * * * * * *

H.R. 1410—"To suspend for two years the duty on parts on spindle motors suitable for computer memory disk drives."

We object to enactment of H.R. 1410. H.R. 1410 would reduce duties on parts of spindle motors suitable for computer memory disk drives. Many parts for spindle motors suitable for computer memory disk drives are produced in the United States. While we understand the intent of the bill is to aid a U.S. producer which uses a patented imported part, we have been unable to devise language which would permit duty-free treatment for the patented part but which does not remove duties on items produced in the United States. H.R. 1410 also would require the U.S. Customs Service to administer an "end use" provision. Enactment of an end use provision would place an unacceptable administrative burden on Customs. The U.S. International Trade Commission estimates that enactment of H.R. 1410 would result in a loss in revenue amounting to about $65,000.

* * * * * * *

We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 1410,[1] if enacted, would suspend the duty on parts of spindle motors dedicated for use in the manufacture of computer memory disc drives for a period of 2 years.

DESCRIPTION AND USES

A spindle motor is a direct current, permanent magnet, brushless motor whose driving action is obtained by energizing a set of stator poles in sequence. Movement is accoplished by feeding pulses to a preset translator controlled by logic circuitry which routes them to the appropriate segment in the pole windings. A spindle motor is, in effect, a synchronous positioning device which is capable of being indexed. A part of a spindle motor is any assembly (such as a stator or rotor), casting, or component used in the construciton of a spindle motor.

Spindle motors have numerous applications, including use in computer disk drives, blood pumps, motion picture film sequencing drives, jet engine control valves, and positioning devices for machine tools.

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[1] H.R. 1410 represents a modification of H.R. 6543, introduced in the last session of Congress to suspend duties on parts of stepper motors.

TARIFF TREATMENT

Parts of spindle motors are principally classified under two provisions in the Tariff Schedules of the United States (TSUS), items 682.55 and 682.60. TSUS item 682.55 provides for "parts of motors of under 1/40 horsepower" and item 682.60 covers parts of motors of 1/40 horsepower or greater. The applicable rates of duty for these two items are shown below:

	Col. 1 [1]	LDDC [2]	Col. 2 [3]
682.55	17.5% ad val.	10% ad val.	90% ad val.
682.60	5.3% ad val.	3% ad val.	35% ad val.

[1] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential treatment under the Generalized System of Preferences (GSP) or under the "LDDC" column.

[2] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column numbered 1 applies.

[3] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

Imported articles classified in both items are eligible for duty-free treatment under the Generalized System of Preferences (GSP), except those articles from Hong Kong and Mexico which are classified in item 682.60.[2] The future staged reductions in the column 1 rates of duty resulting from the Tokyo round of multilateral trade negotiations are shown in the following tabulation:

STAGED RATES

TSUS item No.	Prior rate	Rates of duty [1] effective with respect to articles entered on and after Jan. 1—							
		1980	1981	1982	1983	1984	1985	1986	1987
682.55	25% ad val.	23.1%	21.3%	19.4%	17.5%	15.6%	13.8%	11.9%	10%
682.60	7.5% ad val.	6.9%	6.4%	5.8%	5.3%	4.7%	4.1%	3.6%	3%

[1] The symbol "%" indicates "percent ad valorem."

Although most parts of spindle motors would be classified in one of the above provisions, certain parts, such as bearings, castings and wire, would be more properly classified under other more specific provisions for such parts.[3]

STRUCTURE OF THE DOMESTIC INDUSTRY

Spindle motors are produced by 30 to 40 U.S. firms, with 10 firms reportedly accounting for more than 50 percent of total U.S. production.[4] The share of U.S. production accounted for by the top five firms is not known, but it is believed to be greater than 25 percent of production. These firms include small enterprises such as Superior Electric, Globe Motors, and Sigma Instruments. Principal producers are located in Connecticut, Maine, and Ohio. The product covered by the proposed bill has been narrowly defined; however, while parts of spindle motors used in the manufacture of disk drives for computers are not produced by all of the 30 to 40 firms, it is likely that they are produced by a majority of them.

[2] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

[3] See TSUS general interpretative rule 10(ij) which provides: [A] provision for "parts" of an article covers a product solely or chiefly used as a part of such article, but does not prevail over a specific provision for such part.

[4] Source: The Gold Book; U.S.I.T.C. staff estimates.

DOMESTIC SHIPMENTS

Domestic shipments of spindle motors are estimated to have reached $50 million in 1982, having increased from an estimated $15 million in 1978.[5] Although, as a share of total shipments, the number of spindle motors used in computer disk drives is unknown, compared to other uses of such motors, computer applications are one of the principal markets. Parts of spindle motors likely account for 20 to 25 percent of the cost of producing a spindle motor. Parts of spindle motors used in the manufacture of computer disk drives may account for 30 percent of shipments of parts of all spindle motors.

U.S. IMPORTS

Data on U.S. imports of parts of spindle motors are not separately available; they likely did no exceed $1.0 million in 1982, compared with less than $0.5 million 1978.[6] The difficulty in determining the level of imports is due to the classification of many such parts in a provision covering parts of all motors under 1/40 horsepower (including parts of motors for toys). Principal sources of imports are West Germany, Japan, Canada, and Taiwan. Data on U.S. Imports of parts of spindle motors used in the manufacture of computer disk drives are also not separately available. Imports from column 2 sources are believed to be negligible or nil.

U.S. EXPORTS

Parts of spindle motors and parts of spindle motors used in the manufacture of computer disk drives are not separately provided for in U.S. export schedules. Although the level is unknown, it is believed that total exports of these items are minimal.

APPARENT U.S. CONSUMPTION

Apparent consumption of parts of spindle motors is not separately available but is estimated to have increased from $3 million to $4 million in 1978 to $10 million to $12 million in 1982.[7] Consumption of parts of spindle motors used in computer disk drives is estimated to account for 25 to 30 percent of total apparent U.S. consumption of parts of all spindle motors.

POTENTIAL ANNUAL LOSS OF REVENUE

A suspension of the duty on imports of parts of spindle motors dedicated for use in computer disk drives would likely result in a minimal loss in revenue. In 1982, U.S. imports of parts of all motors of under 1/40 horsepower, the rating of most of the spindle motors, were valued for duty purposes at $3.7 million. It is believed that a large share of these imported parts were used in small motors other than spindle motors. Assuming that 10 percent of the total import value could be attributed to parts dedicated for use in spindle motors, the annual revenue loss as to imports of parts of any spindle motor would amount to about $65,000. However, assuming that only 25 to 30 percent of the imported parts of spindle motors were used in spindle motors for computer disk drives, the revenue loss as to such articles would amount to $16,000 to $20,000 annually.

TECHNICAL COMMENTS

The new item contemplated by the bill is, in effect, a two-level "actual use" provision. That is, a Customs officer attempting to interpret and enforce the item would first be required to determine that an individual imported part was in fact to be used in a spindle motor rather than in some other small electric motor. This decision may be difficult, since many parts, such as wire, castings, and rotors, could potentially be used in motors other than spindle motors. The second necessary determination is that the spindle motor, in which the part would be incorporated, would in fact be used in the manufacture of computer disk drives—thus going beyond the initial use of the imported article. Verifying both uses would be complicated and would impose a substantial administrative burden on the U.S. Customs Service. Because of this burden, the Commission generally discourages the enactment even of one-level "actual use" provisions. However, since it does not appear possible to de-

[5] U.S.I.T.C. staff estimates.
[6] Source: U.S.I.T.C. staff estimates based on official Bureau of Census statistics.
[7] U.S.I.T.C. staff estimates.

scribe spindle motors with sufficient particularity to permit their identification on visual inspection, it may be necessary to enact such a "double use" provision to extend relief from duties to their parts.

It should be noted that any parts of motors classified elsewhere than in schedule 6 of the TSUS would not be covered by the new item. Finally, the fact that the item covers parts for such motors classified anywhere in schedule 6 further complicates the potential administration of the new item by the U.S. Customs Service.

It is suggested that "the fifteenth day following" be inserted after "after" in section 2 in order to permit appropriate notification to Customs officers at ports of entry. The expiration date should be changed to be more definite—either to "6/30/85" or "12/31/85", depending on the date of enactment.

PAPST MECHATRONIC CORP.
May 2, 1983.

Re: H.R. 1410 to temporarily suspend duty on parts of computer spindle motors.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, House Ways and Means Committee, U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN GIBBONS: This statement is submitted on behalf of Papst Mechantronic Corporation of Newport, Rhode Island, in support of the above-cited legislation introduced by Congressman St. Germain. The Information contained herein supplements previous information submitted to the Subcommittee on our behalf by Congressman St. Germain and responds directly to the statements concerning H.R. 1410 which were made on behalf of the Administration at the hearing held by your Subcommittee on April 27, 1983.

As a matter of background, the Subcommittee should be aware that Papst Mechatronci Corporation is the American Subsidiary of a German company which produces small, high technology motors and fans for use in computer equipment. Papst has invested more than $4,000,000 in two separate industrial development bond issues to develop its production facilities for these motors and fans in Rhode Island. The company presently employs approximately 70 persons and is in the process of doubling its work force. The projected payroll by the end of 1983 will be in excess of $150,000/month.

H.R. 1410 is supported by Papst because it corrects an anomaly in the present United States tariff law which encourages Papst to manufacture its motors abroad rather than in Rhode Island. The rate of duty on imported parts for small electric motors is much higher than the rate of duty on the finished motors themselves. This situation is not unlike that concerninbg the high duty on parts of pipe organs which was corrected by the Omnibus Tariff Bill enacted last session (H.R. 4566). In order to avoid paying this high duty rate on parts, Papst currently must import together in one shipment virtually all of the parts which are manufactured into a finished motor. Under the tariff law, this "motor kit" as it is called, is classified under the same provision as a finished motor would be. During 1982, Papst paid approximately $55,000 in duties for these motor kits, and it is anticipated that the duty bill in 1983 will be approximately $134,000. The importation of parts in the form of motor kits, however, is not only expensive for Papst, but also works against the interest of American Parts suppliers since, in the absence of having to import all of the parts as a kit, Papst would purchase many more of the components for these motors here in the United States. H.R. 1410 eliminates the need for the "motor kit" approach by temporarily suspending the duty on these parts. This temporary suspension is especially important for Papst during this critical start-up period when Papst is trying to get its American manufacturing operations off the ground and to secure domestic sources of supply for many of these spindle motor parts.

As the above statistics clearly indicate, the contribution Papst is making to the economy of Rhode Island in terms of investment and payroll far outweigh any possible loss of Customs' revenues that would result form the proposed legislation. Moreover, the Administration does not dispute this fact, since no contention was made at the hearing that the bill, as drafted, would have either a significant impact upon Custom's revenues or an adverse impact upon domestic motor parts manufacturers. The Administration could not take such a position since, to the best of our knowledge, there curently are no other companies producing this type of computer spindle motor here in the United States. Rather, most of these high technology motors are being imported, fully assembled, for Japan.

The Administration has gone on record as being opposed to the enactment of H.R. 1410 because the legislation would require the U.S. Customs Service to administer

an "end use provision" and, according to the Administration, this would "entail an unacceptable administrative burden on the Customs Service." It is significant to note that this is the sole objection to the proposed legislation. With reference to the Administration's argument that the proposed legislation would entail "an unacceptable administrative burden on the Customs Service", we would like to recapitulate the points made in earlier information submitted to the Subcommittee.

The proposed legislation calls for the enactment of an "actual use" provision in the tariff law. There are well over 100 such provisions in the current Tariff Schedules of the United States (TSUS). This simple fact in itself belies the Administration's position that a single additional provision of this type would place an "unacceptable administrative burden" on the Customs Service. Under the current temporary legislation provisions, for example, there is an item providing duty-free treatment for textile fabrics actually used in manufacturing hovercraft skirts (*see* 905.40, TSUS) and an item providing duty-free treatment for chemical products in any physical form actually used in the manufacture of photographic color couplers (*see* 907.10 TSUS). The Customs Service has been able to successfully administer these provisions. We see no basis for their statement that they could not administer a provision extending duty-free treatment to parts actually used in computer spindle motors. A cursory glance at Schedule 1 of the Tariff Schedules reveals provisions covering rice actually used in canned soups (131.37, TSUS), potatoes actually used as seed potatoes (137.20, TSUS), hair actually used in mattresses (186.40, TSUS), intestines actually used as sausage casings (190.58, TSUS), and more than ten other such provisions. Moreover, Schedule 8 of the Tariff Schedules includes more than fifty such actual use provisions including provisions for tea actually used in making caffeine (867.00, TSUS), fabric actually used in making church vestments (850.50, TSUS), and gill nets actually used for fish sampling (870.20, TSUS).

The above examples are merely illustrative of the plethora of actual use provisions contained in the present tariff law. Such provisions are so commonplace that Customs has promulgated regulations on how they are to be administered (*see* 19 C.F.R. 10.131–139 attached as Exhibit A to this statement). These regulations require that an importer who would seek to take advantage of the new provision proposed by H.R. 1410 would first have to file an affirmative statement, at the time he makes his Customs entry covering the imported merchandise, that the merchandise is intended to be used in manufacturing spindle motors. Such an entry, of course, would have to be accompanied by an entry bond equal to the value of the imported parts. Following importation, the importer is required to maintain accurate records on the actual use of the imported parts and, within three years of the date of entry, the importer must prove to the satisfaction of the concerned Customs Import Specialist that the parts in fact were so used. In the event the Customs Import Specialist is not satisfied as to the actual use, he can liquidate the entry under the proper dutiable provision and collect the duties from the importer or, if for any reason the importer cannot at that time pay the duty due, the Government is protected by the entry bond. Therefore, the well-established system for administering actual use provisions places the burden of complying with such provisions primarily on the importer rather than the Customs Service and presents no threat to the revenue.

Turning specifically to Papst's operations, there would be virtually no additional burden placed upon Customs because the concerned Customs Import Specialist is already completely familiar with Papst's operations in Rhode Island. While any importer is free to take advantage of the proposed new actual use provision contained in H.R. 1410, as a practical matter Paspst Mechatronic is the only importer that has made the substantial investment necessary to be in a position to do so. It is most unlikely that during the short lifespan of the temporary duty suspension a significant number of new spindle motor manufacturing plants will be built and the Customs Service will be deluged with entries under the new item number so as to create an administrative burden.

Accordingly, we believe that the Administration, perhaps instinctively, has adopted a position adverse to an actual use provision without analyzing how that particular provision would function at the Customs District level and without taking into consideration the advantages to be derived from the legislation.

The Administration also stated to this Committee that it had been "unable to devise language" which would permit the duty-free importation of these parts without employing an actual use provision. We wish to note that representatives of Papst met with officials of the International Trade Commission on September 21, 1982, concerning a predecessor of the present H.R. 1410. Substantial changes were made in the revised bill as a result of that meeting. At no time since, however, have Administration officials made any effort to work with Congressman St Germain or Senator Pell (who is introducing parallel legislation in the Senate) or Papst on the

language of H.R. 1410. Therefore, the Administration has raised no questions about the legislation except its alleged "burdensomeness," and, to the best of our knowledge, that objection was based on the previous rather than the current language of the bill.

For the reasons stated herein, we hope the Subcommittee will not be dissuaded by the position taken by the Administration, but rather will submit a favorable report on H.R. 1410. If the Committee has any questions concerning the points made in this statement, we would be happy to provide any additional information requested.

Respectfully,

PETER P. GRAD, *Vice President.*

§ 10.117 Notification to district director of final determination.

The district director of Customs for the district in which entry is made for merchandise with respect to which duty-free treatment is claimed under item 851.60, TSUS, shall be notified by the official designated by the Secretary of Commerce of the final disposition of the application covering such entry as soon as such final disposition is made by or becomes known to the official. If the official has not been notified by an applicant in accordance with § 10.116(c) that an entry for merchandise relating to an application has been made prior to a disposition or court decision described in this section, the official shall notify the Commissioner of Customs of such disposition or decision. If the Official thereafter receives notice from the applicant in accordance with § 10.116(c), he shall promptly notify the district director of the final disposition of the application in accordance with the first sentence of this section. (19 U.S.C. 1202 (Gen. headnote 11, scheduled 8, pt. 4, headnotes 1, 6)) [TDs 67–50, 72–84.]

§ 10.118 Disposition of articles entered under item 851.60, TSUS.

(a) An institution transferring an article entered under item 851.60 within 5 years of its entry shall so inform the district director of Customs at the port of entry in writing and shall include the following information: [TDs 67–50, 72–84, 78–99]

(1) The name and address of the transferring institution.

(2) The name and address of the transferee.

(3) The date of transfer.

(4) The description of the article required by question 5 of Form ITA-338P.

(5) The serial number(s) of the article.

(6) The entry number, date of entry, and port of entry of the original entry.

(b) Whenever the circumstances warrant, and occasionally in any event, district directors of Customs shall cause the fact of continued use for 5 years for noncommercial purposes by the importing institution to be verified by the Office of Investigations. (19 U.S.C. 1202 (Gen. headnote 11, schedule 8, pt. 4, headnotes 1, 6).)

§ 10.119 Importation of repair components under item 851.65 for articles previously entered under item 851.60, Tariff Schedules of the United States.

An institution which owns an instrument or apparatus entered under item 851.60 of the Tariff Schedules of the United States and desires to enter repair components for such instrument or apparatus under item 851.65 of the Tariff Schedules of the United States shall certify upon entry of such components that the articles are needed repair components for an article or articles owned by that institution and previously entered and classified under item 851.60, Tariff Schedules of the United States. [TD 68–73.]

Visual or Auditory Materials

§ 10.121 Visual or auditory materials of an educational, scientific, or cultural character.

(a) Where photographic film and other articles described in item 870.30, Tariff Schedules of the United States, are claimed to be free of duty under item 870.30, there shall be filed in connection with the entry covering such articles a document issued by the U.S. Information Agency certifying that it has determined that the articles are visual or auditory materials of an educational, scientific, or cultural character within the meaning of the Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific, and Cultural Character as required by headnote 1, part 6, schedule 8, Tariff Schedules of the United States. [TD 67–185.]

(b) Articles entered under item 870.30, Tariff Schedules of the United States, shall be released from Customs custody prior to submission of the document required in paragraph (a) of this section only upon the deposit of estimated duties with the district director of Customs. Liquidation of an entry covering merchandise which has been released under this procedure shall be suspended for a period of 90 days from the date of entry or until the required document is submitted, whichever occurs first. In the event that the district director of Customs at the port of entry does not receive the required document within the 90-day period, the merchandise shall be immediately classified and liquidated in the ordinary course, without regard to item 870.30. (19 U.S.C. 1202 (Gen. Hdnte 11, sch. 8, pt. 6, hdnte 1))

Rate of Duty Dependent Upon Actual Use[1]

§ 10.131 Circumstances in which applicable.

The provisions of § § 10.131 through 10.139 are applicable in those circumstances in which the rate of duty applicable to merchandise is dependent upon actual use, unless there is a specific provision in this part or Part 54 of this chapter which governs the treatment of the merchandise. However, specific marking or certification requirements, such as those for bolting cloths in section 10.58, may be applicable to merchandise subject to the provisions of sections 10.131–10.139. [TD 71–139.]

§ 10.132 Examples of actual use provisions.

Examples of actual use provisions found in the Tariff Schedules of the United States (19 U.S.C. 1202) which will be subject to the provisions of § § 10.131 through 10.139 are:

(a) Rice * * * Patna, cleaned, for use in the manufacture of canned soups (Item 131.37, Tariff Schedules of the United States);

(b) Woven bolting cloths, wholly of silk, imported to be used for milling purposes, and marked so as to be fit for such purposes (Item 357.25, Tariff Schedules of the United States); and

(c) Limestone, crude, broken, or crushed, when imported to be used in the manufacture of fertilizer (Item 480.05, Tariff Schedules of the United States).

§ 10.133 Conditions required to be met.

When the tariff classification of any article is controlled by its actual use in the United States, three conditions must be met in order to qualify for free entry or a lower rate of duty unless the language of the particular item of the Tariff Schedules of the United States applicable to the

[1] T.D. 71–139, 36 FR 10726, June 2, 1971.

merchandise specifies other conditions. The conditions are that:

(a) Such use is intended at the time of importation.

(b) The article is so used.

(c) Proof of use is furnished within 3 years after the date the article is entered or withdrawn from warehouse for consumption. (77A Stat. 14; 19 U.S.C. 1202 (Gen. Hdnte. 10(e)(ii))

§ 10.134 Declaration of intent.

A showing of intent by the importer as to the actual use of imported merchandise shall be made by filing with the entry for consumption or for warehouse a declaration as to the intended use of the merchandise, or by entering the proper item number of an actual use provision of the Tariff Schedules of the United States and the reduced or free rate of duty on the entry form. Entry made under an actual use provision of the Tariff Schedules of the United States may be construed as a declaration that the merchandise is entered to be used for the purpose stated in the schedules, provided the district director is satisfied the merchandise will be so used. However, the district director shall require a written declaration to be filed if he is not satisfied that merchandise entered under an actual use provision will be used for the purposes stated in the schedules.

§ 10.135 Deposit of duties.

When the requirement of § 10.134 has been met the merchandise may be entered or withdrawn from warehouse for consumption without deposit of duty when proof of use will result in free entry, or with deposit of duty at the lower rate when proof of use will result in a lower rate of duty. For bond requirements, see section 8.28 of this chapter.

§ 10.136 Suspension of liquidation.

Liquidation of an entry covering merchandise for which a declaration of intent has been made pursuant to § 10.134 and any required deposit of duties made, shall be suspended until proof of use is furnished or the 3-year period allowed for production thereof has expired.

§ 10.137 Records of use.

(a) *Maintenance by importer.* The importer shall maintain accurate detailed records showing the use or other disposition of the imported merchandise. The burden shall be on the importer to keep records so that the claim of actual use can be readily established.

(b) *Retention of records.* The importer shall retain records of use or disposition for a period of 3 years from the date of liquidation of the entry.

(c) *Examination of records.* The records required to be kept by paragraph (a) shall be available at all times for examination and inspection by an authorized Customs officer.

§ 10.138 Proof of use.

Within 3 years from the date of entry or withdrawal from warehouse for consumption, the importer shall submit in duplicate in support of his claim for free entry or for a reduced rate of duty a certificate executed by (1) the superintendent or manager of the manufacturing plant, or (2) the individual end-user or other person having knowledge of the actual use of the imported article. The certificate shall include a description of the processing in sufficient detail to show that the use contemplated by the law has actually taken place. A blanket certificate covering all purchases of a given type of merchandise from a particular importer during a given period, or all such purchases with specified exceptions, may be accepted for this purpose, provided the importer shall furnish a statement, showing in detail, in such manner as to be readily identified with each entry, the merchandise which he sold to such manufacturer or end-user during such period.

§ 10.139 Liquidation.

(a) *In general.* Upon satisfactory proof of timely use of the merchandise for the purpose specified by law, the entry shall be liquidated free of duty or at the lower rate of duty specified by law. When such proof is not filed within 3 years from the date of entry or withdrawal from warehouse for consumption, the entry shall be liquidated dutiable under the appropriate item of the Tariff Schedules of the United States.

(b) *Exception for blackstrap molasses.* An entry covering blackstrap molasses, as hereinafter defined, may be accepted and liquidated with duty at the lower rate after the filing of the declaration of intent required by § 10.134 and the deposit of estimated duties required by § 10.135 without compliance with §§ 10.136, 10.137, and 10.138. Blackstrap molasses is "final" molasses practically free from sugar crystals, containing not over 58 percent total sugars and having a ratio of

$$\text{total sugars} \times 100/\text{Brix}$$

not in excess of 71. In the event of doubt, an ash determination may be made. An ash content of not less than 7 percent indicates a blackstrap molasses within the meaning of this paragraph.

Importations Not Over $5 and Bona Fide Gifts

§ 10.151 Importations not over $5.

Pursuant to section 321(a)(2)(C), Tariff Act of 1930, as amended (19 U.S.C. 1321(a)(2)(C)), the district director shall pass free of duty and tax, and without the preparation of an entry, any importation having a fair retail value in the country of shipment not exceeding $5, unless he has reason to believe that the shipment is one of several lots covered by a single order or contract and that it was sent separately for the express purpose of securing free entry therefor or of avoiding compliance with any pertinent law or regulation. (Sec. 7, 52 Stat. 1081, as amended, sec. 498, 46 Stat. 728, as amended; 19 U.S.C. 1321, 1498) [TDs 73-175, 75-185, 78-394]

§ 10.152 Bona fide gifts.

Pursuant to section 321(a)(2)(A), Tariff Act of 1930, as amended (19 U.S.C. 1321(a)(2)(A)), the district director shall pass free of duty and tax, and without the preparation of an entry, any article sent as a bona-fide gift from a person in a foreign country to a person in the United States, provided the aggregate fair retail value in the country of shipment of such articles received by one person on 1 day does not exceed $25 or, in the case of articles sent from a person in the Virgin Islands, Guam, and American Samoa, $40. An article is "sent" for purposes of this paragraph if it is conveyed in any manner other than

STATEMENT OF HON. FERNAND J. ST GERMAIN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF RHODE ISLAND

Mr. Chairman, Members of the Committee. Thank you for the opportunity to voice support for my bill, H.R. 1410, which would allow for the suspension of the duty on imported parts of small electric motors, for a period of two years. I view this legislation as being of considerable importance since present United States tariff law encourages domestic companies in this line of manufacturing to do so abroad because of the rate of duty on the imported parts of the motors is higher than the rate of duty on the finished motors themselves. This is akin to the act of "shooting yourself in the foot".

This tariff scheme, as applied to a domestic manufacturer has the effect of exporting American jobs by discouraging domestic manufacturing operations. The high duty rate on parts for these motors is especially burdensome during the start-up period when these companies are trying to get their American manufacturing operation off the ground. To solve this problem, I propose through H.R. 1410, a two-year suspension of the duty on these parts. At the same time, Mr. Chairman, I want to stress the fact that I am doing so on the strong expectation that by the end of the two-year period, domestic sources of supply for these parts can and will be assured. In essence, a new factory will have been opened and new product development will have taken place in the United States, and new jobs will have been created.

At present, such a company must import parts in one shipment. These come, I am told, in the form of a "motor kit" which is classified under existing tariff law as a finished motor would be. Importation of these parts, however, is not only expensive, but works against the interests of American parts suppliers, since the assembling company, in this instance, is not able to buy the components in the United States. What we are aiming to accomplish, through this suspension process, is to establish a new industry with new production—along with new jobs—all for Americans in America.

Mr. Chairman, H.R. 1410 is quite similar to legislation on the tariff issue that I introduced during the last Congress. There are some differences to be noted, regarding the implications of meaning in the tariff laws to be sought through H.R. 1410. To that end I would ask consent that a report on the earlier bill in the 97th Congress (H.R. 6543), prepared by the International Trade Commission and submitted to this Committee under date of October 27, 1982, be made a part of the hearing record. In that same regard, Mr. Chairman, I would ask that two letters sent to me by the New York law firm of Rode and Qualey under dates of September 24, 1982 and December 27, 1982, also be made part of the hearing record. These three documents are relevant to the narrative and the explanation I offer on behalf of H.R. 1410 in this statement.

Mr. Chairman, this concludes my remarks. I hope that the committee will bear in mind the situation I have described as it moves on adoption of new authorizing legislation. I believe timely and necessary policy is needed, for the sake of avoiding high duty rates on parts that must be imported during critical start-periods by this type of manufacturing concern. To solve this problem, I am proposing a two-year suspension of duty on certain parts, but I propose this exception on the expectation that by the expiration of that time period, new domestic sources of supply can and will be assured. I would hope that this approach will meet with the approval of the Committee in its consideration of this problem.

Thank you.

PAPST MECHATRONIC CORP.,
Newport, R.I., November 11, 1982.

Hon. FERNAND J. ST GERMAIN,
Chairman, House Committee on Banking, Finance and Urban Affairs, Washington, D.C.

DEAR CONGRESSMAN ST GERMAIN: Thank you very much for your letter of November 3, 1982 and the enclosed memorandum of the U.S. International Trade Commission in regards to your Bill H.R. 6543.

As you know, the word "stepper motor" is not applicable. We have, therefore, carefully reviewed the ITC report and met with three of their people. The enclosed letter, sent to you on September 24, 1982, is still the most timely and appropriate response.

Your proposed legislation as modified, for which we are very grateful, is still of utmost importance to us and we hope for its smooth sailing through the House.

Sincerely,

PETER P. GRAD.

PAPST MECHATRONIC CORP.,
Newport, R.I., September 24, 1982.

Attention: Mr. E.W. Webber.
Re H.R. 6543.

Hon. FERNAND J. ST GERMAIN,
Chairman, House Committee on Banking, Finance and Urban Affairs, Washington, D.C.

DEAR CONGRESSMAN ST GERMAIN: I have prepared the following letter, with technical assistance from our customs counsel, concerning the above-cited legislation, which you were kind enough to introduce on behalf of our company; the effect of this Bill would be to temporarily suspend the duty on imported parts of the small electric motors which we manufacture in Rhode Island.

As you will recall from our discussions which led to the introduction of this Bill, the present United States tariff law encourages Papst to manufacture its motors abroad because the rate of duty on the imported parts of electric motors is higher than the rate of duty on finished motors themselves. This tariff scheme, as applied to the Papst situation, has the effect of exporting American jobs by discouraging domestic manufacturing operations. The high duty rate parts is especially burdensome during the start-up period when our company is trying to get its American manufacturing operation off the ground. To solve this problem we have proposed a two-year suspension of the duty on these parts, on the expectation that by the expiration of that period, domestic sources of supply can be assured.

Currently, in order to avoid paying the high duty rate on parts of electric motors, Papst must import together in one shipment virtually all of the parts which are manufactured into a finished motor. Under the tariff law, this "motor kit", as it is called, is classified under the same provisions as a finished motor would be. The importation of parts in the form of "motor kits", however, is not only expensive for Papst, but also works against the interests of American parts suppliers, since in the absence of having to import all of the parts and in kit, Papst would purchase many of the components for these motors here in the United States. Therefore, we are most interested in pressing forward with the proposed H.R. 6543 to suspend the duty on parts so that we can abandon the "motor kit" approach and purchase more parts domestically.

To this end, along with our customs council, I recently met with officials of the International Trade Commission. As we pointed out in our letter to you of June 7, 1982, the language of H.R. 6543, as introduced, does not clearly describe motors which we are importing. In your kind letter of June 9, 1982, you indicated that this problem should be resolved and the language clarified during the legislative process.

In our meeting with ITC officials we attempted to come up with language which would accurately describe the merchandise imported by Papst, at the same time, we sought to rephrase the proposed statute so as not adversely impact other domestic manufacturers, and to avoid as many problems of interpretation and administration as possible. We believe that we are able to come up with this language. We recommend that H.R. 6543 should be amended by deleting the present language in the proposed Item 912.15 and substituting the following: Parts of fractional horsepower, permanent magnet, brushless, electronically commutated, DC motors (whether or not such parts are specifically provided for elsewhere in the Tariff Schedules), imported for use in the manufacture of spindle motors for computer memory disk drives.

This amendment to the Bill would provide language which precisely describes the merchandise being imported by Papst. Moreover, to our knowledge, Papst is the only company which imports parts of such motors and manufactures them into finished motors here in the United States. Therefore, the amended Bill would cover a very limited class of merchandise, would have virtually no impact on domestic manufacturers, and would result in an insignificant loss in customs revenues which would be more than offset by the additional taxes collected as a result of more American jobs and more sales by American motor parts suppliers to Papst.

The main concern of officials at the International Trade Commission with the proposed amendatory language revolved around possible problems with administering a provision based upon actual use of the imported parts. We believe, however, that this should not be a significant concern. There are many provisions in the present tariff law which are based upon actual use of imported merchandise. There are so many of these provisions, in fact, that customs has promulgated clear regulations on what procedures should be followed in order to establish that merchandise entered under such provisions is actually used for the prupose intended. *See* Section 10.131 *et seq.* of the Customs Regulation (19 CFR 10.131 *et seq.*). Papst is fully prepared to

abide by those regulations and certify that the parts we will be importing are actually manufactured into electric motors in Rhode Island. Customs personnel in Providence and Boston are very familiar with Papst operations and will be fully capable of administering the proposed new provision.

ITC officials also expressed their concern that other importers might attempt to abuse the proposed new tariff provision. Given the precise language of the amended provision, an importer would have to initiate a manufacturing operation for the same sort of motors here in the United States in order to enter merchandise under this Item. If another company is prepared to set up such manufacturing operations here in the United States, we see no reason why they should not also be able to enjoy the benefits of this provision for the next two years. From a practical standpoint, however, it is unlikely that this temporary suspension of duty for such a limited class of merchandise will result in any significant increase in duty-free importation.

Officials at the ITC were also interested in having the proposed Bill apply only to motors of an exactly stated horsepower. Unfortunately, there are no generally recognizable procedures for establishing the exact horsepower of a fractional horsepower motor of the type manufactured by Papst in Rhode Island. Papst has had ongoing discussions with U.S. customs officials concerning the exact horsepower rating of its motor.

Initially all models of Papst Motors were classified as being of less than 1/40 horsepower. After retesting, some of our motors have been re-classified as of greater than 1/40 horsepower. Other models of our motors are currently being retested by customs, and we are confident that eventually all of our motors will prove to be of more than 1/40 horspower. However, at present some motors are being classified as of less than 1/40 horsepower while others are being classified as of more than 1/40 horsepower. Therefore, at this time it is impossible to put an exact horsepower rating into the proposed legislation and be sure that it would cover all of the motors manufactured by Papst. This horsepower issue is not crucial, however, since the other language of the proposed amended provision precisely describes the motors being manufactured and distinguishes them from other fractional horsepower motors.

ITC officials were also concerned about the effect of General Interpretative Rule 10 (ij) of the Tariff Schedules on the proposed new provision for parts. This interpretative rule of tariff classification provides that a provision for parts of an article does not prevail over a specific provision for such parts. Therefore, an example, the printed circuit board which we incorporate into our motors would ordinarily be classified under Tariff Items 65.90 as sprinted circuit board rather than under either Item 62.55 or 682.60 as parts of a motor. However, the proposed amendment addresses the problem by inserting the phrase "whether or not specifically provided for elsewhere in the Tariff Schedule" in the proposed new tariff provision. This language is also used in other parts of the tariff law to make General Interpretative Rule 10 (ihj) inapplicable to a given provision. Customs officials are familiar with such provisions and are fully capable of administering them.

We believe that the language of the proposed amendment to H.R. 6543 quoted in this letter will overcome any reservations the International Trade Commission may have about the Bill as introduced. Moreover, we believe the new provision would be even easier to administer if this letter, or the substance thereof, was included as part of the statement of managers to accompany the Bill or elsewhere, so as to become part of its legislative history.

We are obviously interested in having an amended Bill enacted as quickly as possible. To that end, we understand that although tariff legislation is already moving through the Ways and Means Committee, there may still be some way to advance the legislation this session so as to avoid the necessity of introducing a completely new Bill next year. Any effort you can make on our behalf to secure that result would be greatly appreciated.

If I can provide any further information in this regard to you or other Members of Congress, by way of documentation, presentation, or testimony, I would be most happy to do so.

Very truly yours,

PETER P. GRAD,
Vice President/General Manager.

[U.S. International Trade Commission report, 97th Congress]

PURPOSE OF THE LEGISLATION

H.R. 6543, if enacted, would suspend the duty on parts of stepper motors dedicated for use in the manufacture of computer disk drivers for a period of 2 years.

DESCRIPTION AND USES

A stepper, or stepping, motor is a direct current, permanent magnet, brushless motor whose driving action is obtained by energizing a set of stator poles in sequence. Stepping is accomplished by feeding pulses to a preset translator controlled by logic circuitry which routes them to the appropriate segment in the pole windings. A steeper motor is, in effect, a positioning devise which is capable of being indexed. A part of a stepper motor is any assembly (such as a stator or rotor), casting, or component used in the construction of a stepper motor.

Stepper motors have numerous applications, including use in computer disk drives, blood pumps, motion picture film sequencing drives, jet engine control valves, and positioning devices for machine tools.

TARIFF TREATMENT

Parts of stepper motors are principally classified under two provisions in the Tariff Schedules of the United States (TSUS), item 682.55 and 682.60. TSUS item 682.55 provides for "parts of motors of under 1/40 horsepower" and item 682.60 covers parts of motors of 1/40 horsepower or greater. The applicable rates of duty for these two items are shown. below:

	Col. 1 [1]	LDDC [2]	Col. 2 [3]
682.55	19.4% ad val.	10% ad val.	90% ad val.
682.60	5.8% ad val.	3% ad val.	35% ad val.

[1] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries which are granted preferential tariff treatment under the GSP or under the "LDDC" rate of duty column.

[2] The rates of duty in rate of duty column "LDDC" are preferential rates (reflecting the full U.S. MTN concession rate for a particular item without staging) and are applicable to products of the least developed developing countries designated in general headnote 3(d) of the TSUS which are not granted duty-free treatment under the GSP. If no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty provided in column numbered 1 applies.

[3] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communists countries and areas enumerated in general headnote 3(f) of the TSUS.

Both items have been designated as eligible for duty-free treatment under the Generalized System of Preferences (GSP).[1] The future staged reductions in the column 1 rates of duty resulting from the Tokyo round of multilateral trade negotiations are shown in the following tabulation:

STAGED RATES

TSUS item No.	Prior rate	Rates of duty [1] effective with respect to articles entered on and after Jan.1—							
		1980	1981	1982	1983	1984	1985	1986	1987
682.55	25% ad val.	23.1%	21.3%	19.4%	17.5%	15.6%	13.8%	11.5%	10%
682.60	7.5% ad val.	6.9%	6.4%	5.8%	5.3%	4.7%	4.1%	3.6%	3%

[1] The symbol "%" indicates "percent ad valorem."

Although most parts of stepper motors would be classified in one of the above provisions, certain parts, such as bearings, castings and wire, would be more properly classified under other more specific provisions for such parts.[2]

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[1] The GSP under Title V of the Trade Act of 1974 provides duty-free treatment of specified eligible articles imported directly from designated beneficiary developing countries. GSP, implemented by Executive Order No. 11888 of Nov. 24, 1975, applies to merchandise imported on or after Jan. 1, 1976, and is scheduled to remain in effect until Jan. 4, 1985.

[2] See TSUS general interpretative rule 10(ij) which provides: [A] provision for "parts" of an article covers a product solely or chiefly used as a part of such article, but does not prevail over a specific provision for such part.

STRUCTURE OF THE DOMESTIC INDUSTRY

Stepper motors are produced by 30 to 40 U.S. firms, with 10 firms reportedly accounting for more than 50 percent of total U.S. production.[3] The share of U.S. production accounted for by the top five firms is not known, but it is believed to be greater than 25 percent of production. These firms include small enterprises such as Superior Electric, Globe Motors, and Sigma Instruments. Principal producers are located in Connecticut, Maine, and Ohio. the product covered by the proposed bill has been narrowly defined; however, it is likely that, while parts of stepper motors used in the manufacture of disk drives for computers are not produced by all of the 30 to 40 firms, they are produced by a majority of them.

DOMESTIC SHIPMENTS

Domestic shipments of stepper motors are estimated to have reached $50 million in 1981, having increased from an estimated $15 million in 1977.[4] Although, as a share of total shipments, the number of stepper motors used in computer disk drives is unknown, compared to other uses of such motors, computer applications are one of the principal markets. Parts of stepper motors likely account for 20 to 25 percent of the cost of producing a stepper motor. Parts of stepper motors used in the manufacture of computer disk drives may account for 30 percent of shipments of parts of all stepper motors.

U.S. IMPORTS

U.S. imports of parts of stepper motors are not separately available; they likely did not exceed $1.0 million in 1981, compared with less than $0.5 million in 1977.[5] The difficulty in determining the level of imports is due to the classification of many such parts in a provision covering parts of all motors under 1/40 horsepower (including parts of motors for toys). Principal sources of imports are West Germany, Japan, Canada, and Taiwan. U.S. imports of parts of stepper motors used in the manufacture of computer disk drives are also not separately available. Imports from column 2 sources are believed to be negligible or nil.

U.S. EXPORTS

Parts of stepper motors and parts of stepper motors used in the manufacture of computer disk drives are not separately provided for in U.S. export schedules. Although the level is unknown, it is believed that total exports of these items are minimal.

APPARENT U.S. CONSUMPTION

Apparent consumption of parts of stepper motors is not separately available but is estimated to have increased from $3 million to $4 million in 1977 to $10 million to $12 million in 1981.[6] Consumption of parts of stepper motors used in computer disk drives is estimated to account for 25 to 30 percent of total apparent U.S. consumption of parts of all stepper motors.

POTENTIAL ANNUAL LOSS OF REVENUE

A suspension of the duty on imports of parts of stepper motors dedicated for use in computer disk drives would likely result in a minimal loss in revenue. In 1981, U.S. imports of parts of all motors of under 1/40 horsepower, for duty purposes, were valued at $2.6 million. It is believed that a large share of these imported parts were used in small motors other than stepper motors. Assuming that 10 percent of the total import value could be attributed to parts dedicated for use in stepper motors, the annual revenue loss as to imports of parts of any stepper motor would amount to about $50,000. However, assuming that only 25 to 30 percent of the imported parts of stepper motors were used in stepper motors for computer disk drives, the revenue loss as to such articles would amount to $12,000 to $15,000 annually.

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[3] Source: *The Gold Book;* U.S.I.T.C. staff estimates.
[4] U.S.I.T.C. staff estimates.
[5] Source: U.S.I.T.C. staff estimates based on official Bureau of Census statistics.
[6] U.S.I.T.C. staff estimates.

TECHNICAL COMMENTS

The draft legislation presents several administrative and technical problems. First, it is the understanding of Commission staff, based on a meeting with the proponents of the bill, that the bill was actually intended to cover parts of spindle motors used in the manufacture of computer disk drives, rather than parts of stepper motors. Spindle motors are another type of direct current permanent magnet motor; they are brushless, electronically commutated, continuous operating synchronous speed motors, used to drive the disks themselves. Stepper motors are separate power sources which run the pick-up mechanism, the device which reads the information contained on the disk. As drafted, the bill could not achieve its intended goal.

Second, the new item contemplated by the bill is in effect a two-level "actual use" provision. That is, a Customs officer attempting to interpret and enforce the item would first be required to determine that an individual imported part was in fact to be used in a spindle motor (assuming the first problem noted above is resolved), rather than in some other small electric motor. This decision may be difficult, since many parts, such as wire, castings, and rotors could potentially be used in motors other than spindle motors. The second necessary determination is that the spindle motor, in which the part would be incorporated, would in fact be used in the manufacture of computer disk drives—thus going beyond the initial use of the imported article. Verifying both uses would be complicated and would impose a substantial administrative burden on the Customs Service. Because of this burden, the Commission generally discourages the enactment even of one-level "actual use" provisions. However, since it does not appear possible to describe spindle motors with sufficient particularity to permit their identification on visual inspection, it may be necessary to enact such a "double use" provision to extend relief from duties to their parts.

It should be noted that the rating of fractional horsepower motors can be difficult and that parts of motors rated 1/40 horsepower or more are not provided for in TSUS item 682.55. In addition, some parts of motors are provided for *eo nomine* elsewhere in the TSUS. Thus, the legislation may not achieve the legislative intent if the new item is limited in coverage to parts provided for in item 682.55. This situation further complicates the potential administration of the item by the Customs Service.

RODE & QUALEY,
ATTORNEYS AT LAW,
New York, N.Y. December 27, 1982.

Attention: Mr. Edwin W. Webber.

Re Duty suspension bill—Papst Mechatronic Corp.

U.S. House of Representatives, Committee on Banking, Finance and Urban Affairs, Washington, D.C.

DEAR MR. WEBBER: Pursuant to our telephone coversation of December 2, 1982, enclosed please find the proposed draft of new legislation which we understand will be introduced by Congressman St Germain at the beginning of the next session of Congress to replace H.R. 6543 which was introduced during the current session, and which was supported by our client, Papst Mechatronic Corporation.

We believe the language of the proposed draft will accomplish the purposes for the legislation which Mr. Grad discussed with Congressman St Germain in May and restated in his letter of September 24, 1982. At the same time, we believe this language will solve, or at least minimize the problems raised by the International Trade Commission in their report on H.R. 6543 dated October 27, 1982.

What follows is a point-by-point discussion of the matters discussed in the ITC report on H.R. 6543, and an explanation of how each has been addressed in the newly proposed legislation.

The first problem with H.R. 6543 was that the Bill covered "stepper motors." As the ITC pointed out on page four of its report, thirty to forty United States firms assemble stepper motors, and the ITC believes a majority of these also produce parts for such motors. By contrast, the new legislation covers only parts of spindle motors, which are distinct from stepper motors and which, to the best of our knowledge, are currently assembled from imported parts only by Papst Mechatronic.

On page six of its report, the ITC notes the problem with the stepper motor language in the original Bill, which, of course, the revised version will correct; the focus on the term "stepper motors" affects the relevance of the rest of the ITC report, since the satistics used relate to a different type of merchandise.

The next question, raised on page seven of the ITC report, concerned the creation of a two-level actual use provision which the ITC felt would be difficult to adminis-

ter because Customs would be required to get certifications from both the manufacturer of the spindle motors and, in addition, from the ultimate manufacturer of the computer disc drives. The proposed legislation eliminates the "two-level" actual use certification by inserting the substitute language, "suitable for computer memory disc drives." The use of an objective standard, "suitable," in lieu of the double actual use approach, will allow the Customs Services to accept a single certificate from the spindle motor manufacturer that the imported parts are, in fact, used in the assembly of such motors. This change will permit the Customs Service to determine whether such spindle motors are suitable for a computer memory disc drive, based upon whatever data the Service deems relevant. This determination of suitability might be based, for example, on proof of design, as by blueprints, specification sheets, or by affidavits from the manufacturer, or otherwise.

As to the statement that the Commission generally discourages the enactment of even one-level actual use provisions because of the substantial administrative burden thereby placed on the Customs Service, we note that this Bill is designed to achieve a very specific, limited purpose, that being to correct an anomaly in the structure of the present tariff rates which makes it more expensive to assemble certain small electric motors in the United States than it is to import the finished motors from abroad. The Bill is designed to encourage American assembly operations and create American jobs. In order to accomplish these purposes and, at the same time limit the impact of the provision so as not to adversely affect Customs revenues or other domestic manufacturers, an actual use provision is necessary.

There are well established Customs procedures for administering actual use provision; they are to be found in Section 10.131 through 10.139 of the Customs Regulations. These regulations require importers to make an affirmative statement at the time of importation that they intend to use the parts in assembling spindle motors; the regulations also require importers to keep records of the actual use of the parts, and place the burden on the importers to certify that the parts were so used within three years of importation. The main administrative burden of actual use provisions, therefore, is placed on the importers, not on the government. There are a number of actual use provisions in the present tariff law, all of which are designed to achieve particular purposes. Customs has been able to administer these provisions in the past, and given the extremely limited situations in which this proposed provision could be applied, there is no reason to believe it would place a significant new burden on the Custom Service. Moreover, as stated above, to our knowledge Papst Mechatronic is the only importer currently in a position to utilize the proposed provision because they are the only importer currently assembling such motors in the United State. Papst imports the parts for its motor through a single Customs port of entry, Boston, and Customs officials at Boston are completely familiar with Papst assembly operations.

Finally, the ITC correctly noted that some parts of the motors in question are specifically provide for in existing provisions of the Tariff Schedules, other than items 682.55 or 682.60. The proposed legislation includes the language, "whether or not specifically provided for elsewhere in the Tariff Schedules"; this language, which has been used in several other provisions throughout the tariff, counteracts the effect of General Interpretative Rule 10(ij), and allows all parts which are intended for use in assembling spindle motors to be entered under the proposed provisions, subject to verifiable certification by the importer that the parts were so used.

Accordingly, we believe the newly proposed legislation successfully addresses the potential problems identified in the ITC report. Moreover, we suggest that the provision would be even easier to administer if the substance of this letter could be included as part of its legislative history.

There is considerable interest in having the legislation moved as quickly as possible, and to this end, we would be happly to come to Washington to meet with you or with those persons responsible for the technical aspects of legislative drafting to discuss the proposed Bill. After you have had a chance to review this matter, please give me a call and we will discuss how best to proceed.

Best regards,

R. BRIAN BURKE.

H.R. 1423

To provide for the duty-free entry of a pipe organ for the Crystal Cathedral of Garden Grove, Calif.

DEPARTMENT OF COMMERCE

This is in reponse to your request for the views of this Department on various miscellaneous trade bills. On April 27 and May 10, 1983, the Administration testified that it had no objection to a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

We believe that the effective date of all bills that are not a continuation of current tariff treatment should be no sooner than fifteen days after enactment. Providing an effective date fifteen days after enactment will enable the U.S. Customs Service to notify its field offices and U.S. importers of changes made.

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H.R. 1423—"To provide for the duty-free entry of a pipe organ for the Crystal Cathedral of Garden Grove, California."

We have no objection to enactment of H.R. 1423. The pipe organ for the Crystal Cathedral entered the United States in separate shipments which were classified by Customs as parts of a pipe organ, subject to a duty, instead of being classified as a complete pipe organ, which would have been duty free. Since that time, the duty on parts of pipe organs has been suspended under Public Law 97–446. Enactment of H.R. 1423 would result in a revenue loss of $18,900.34.

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We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

H.R. 1583

To extend permanent duty-free treatment to warp knitting machines.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27 and May 10, 1983, the Administration testified that it had no objection to a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

We believe that the effective date of all bills that are not a continuation of current tariff treatment should be no sooner than fifteen days after enactment. Providing an effective date fifteen days after enactment will enable the U.S. Customs Service to notify its field offices and U.S. importers of changes made.

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H.R. 1583—"To extend permanent duty-free treatment to warp knitting machines."

We have no objection to enactment of H.R. 1583. There are no domestic manufacturers of warp knitting machines, and we are not aware of any domestic producers with plans to enter this industry. Duty free imports of these machines would promote lower investment costs for the U.S. textile industry. The U.S. International Trade Commission (USITC) estimates revenue loss, due to elimination of tariffs on the machines, of $914,146 in 1983, declining to $728,218 in 1987. Because of the structure of the tariffs on parts for these machines, enactment of H.R. 1583 also would affect the tariff on parts. Revenue loss for parts are estimated at $639,206 in 1983, declining to $509,198 in 1987.

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We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 1583, if enacted, would amend the Tariff Schedules of the United States (TSUS) to provide for permanent duty-free entry of warp knitting machines (provided for in TSUS item 670.20) from column 1 countries,[1] effective after June 30, 1983. The legislation, as introduced, would also eliminate the customs duty on parts of these machines.[2]

DESCRIPTION AND USES

Machines.—Warp knitting machines are machines which generally produce flat or open width fabrics by feeding numerous ends of yarn from warps or beams to a series of needles, each end of the warp yarn being fed to an individual needle. Warp

[1] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or under the "LDDC" column.

[2] See Technical comments section.

knitting machines range from the very simple type to large machines with many rows of needles. In some cases, these machines are equipped with jacquard or similar mechanisms to produce various designs.

A warp knit fabric tends to be less mobile or resilient than a weft knit fabric. Whereas a weft fabric will possess both lengthwise and widthwise resilience, a warp knit fabric embodies this stretch property in only one direction; i.e., widthwise resilience.

Warp knitting machines comprise several different categories. The two most common machines are tricot and Raschel machines.[3] Simplex, Milanese, and Kettenraschel are other types of warp knitting machines.

Tricot warp knitting machines are generally equipped with a single bed of spring needles. The recent development, however, of tricot warp knitting machines fitted with latch needles and with so-called compound needles has led to an abandonment of definitions based on the type of needles.

A tricot fabric can be plain, patterned, or striped. Generally tricot fabrics are much lighter in weight than Raschel fabrics. But tricot fabrics can also be made to resemble Raschel fabrics. The most common kind of tricot fabric is two-bar tricot which includes tricot jersey—the most widely used material for lingerie and other intimate apparel, printed outerwear, and backing bonded knits. Other than jersey, two-bar tricot also comes in satin, sharkskin, tulle and angel lace construction among the more important tricot fabrics. The genre also comprises a wide range of striped and patterned fabrics.

Raschel knitting machines are equipped with either one or two needle beds. They are usually fitted with latch needles but are sometimes fitted with compound needles.

The Raschel knitter is the most versatile of all fabric producing knitting machines. Unlike tricot, Raschel fabric runs the gamut from netting, lace, and curtain fabrics to heavy, ponderous plush and pile coating and carpet fabrics. Among the most popular types of Raschel fabric are: (1) Power-net or elastic fabric for foundation garments and swimsuits; (2) thermal cloth, a specially constructed double knit fabric for underwear; (3) lace which may compare in weight and complexity to lace produced on Levers lace machines; (4) netting which can range in structure, weight, and strength from flimsy hair nettings to the most robust deep sea fishing or camouflage nettings. Raschel is an especially suitable fabric for women's outwear application and men's knit shirts. More recently it has been introduced in patterns and weights suitable for men's tailored clothing, such as slacks and sport jackets.

Parts.—The following are the component parts of a warp knitting machine which may be classifiable in TSUSA item 670.7440: needle clamp rods, pressure levers, links (chains), shaft dividing rods, needle clamps, cams, rubber tension and take down rollers, latch wires, jacquards, trick plates, sinkers, guides and guide bars, latch guards, warp let-off mechanisms, fabric take-up rollers, and warp beams.[4]

TARIFF TREATMENT

Machines.—Warp knitting machines are provided for in TSUS item 670.20. This tariff provision covers all knitting machines other than circular knitting machines, full-fashioned hosiery machines, and V-bed flat knitting machines. Item 670.20 also includes flat links-and-links knitting machines and certain manual knitting machines. The current column 1 rate of duty is 5.9 percent ad valorem.

The Multilateral Trade Negotiations (MTN) staged rates applicable to column 1 imports under item 670.20 are as follows:

[In percent ad valorem]

Item	1983	1984	1985	1986	1987
670.20 (percent)	5.9	5.6	5.3	5.0	4.7

The pre-MTN rate was 7 percent ad valorem.

The column 2 rate of duty [5] is 40 percent ad valorem. Imports from countries subject to column 2 rates of duty amounted to $101,059 in 1982. Imports from least de-

[3] Raschel machines include Raschel crochet machines.

[4] If these articles are more specifically provided for elsewhere in the TSUS, then classification could not be made as parts of knitting machines. General Headnote 10(ij), TSUS.

[5] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

veloped developing countries (LDDC's) in 1982 totaled $648; the LDDC rate of duty is 4.7 percent ad valorem.[6]

Articles covered by item 670.20 are listed as eligible under the Generalized System of Preferences (GSP) and are thus permitted duty-free entry into the United States when imported from designated beneficiary developing countries.[7] During 1982, imports valued at $57,769 were entered under item 670.20 from such beneficiary developing countries. However most, if not all, of such imports were probably not warp knitting machines.

Parts.—Non-enumerated parts for warp knitting machines are provided for in TSUSA item 670.7440. This provision covers certain parts for all knitting machines not otherwise provided for. The duty applicable to these parts is: "The rate for the machines of which they are parts". Thus, the MTN staged rates applicable to column 1 imports of parts of warp knitting machines under item 670.74 are as follows:

[In percent ad valorem]

Item	1983	1984	1985	1986	1987
670.74 (percent)	5.9	5.6	5.3	5.0	4.7

The pre-MTN rate was 7 percent ad valorem.

The column 2 rate of duty is 40 percent ad valorem. Imports from countries subject to column 2 rates of duty amounted to $82,799 in 1982. There were no imports from LDDCs during 1981 and 1982.

Articles covered by item 670.7440 are listed as eligible under the GSP and are thus permitted duty-free entry into the United States when imported from designated beneficiary developing countries. During 1982, imports valued at $59,418 were entered under item 670.7440 from such beneficiary developing countries. However most, if not all, of such imports were probably parts of machines other than warp knitting machines.

STRUCTURE OF THE DOMESTIC INDUSTRY

Machines.—In recent years, all U.S. textile machine manufacturers except for one have abdicated the production of warp knitting machines to foreign producers. Today, one firm employing 10 production workers builds Raschel Crochet machines, a minor type of Raschel knitting machine, in the United States. This firm, the Cidega Machine Corp. of River Edge, N.J., is a subsidiary of Joan Fabrics Corp. of Lowell, Mass.

Two other firms, which are machine shops with a diversified product line, formerly made a few small laboratory models for knitting sample tricot fabrics. For the last few years, each of these firms has made only an occasional knitting machine and each regards itself as essentially out of the business. These firms are Gibbs Machine Co., Inc., Greensboro, N.C., with about 50 employees, and Bearing Products Co., Philadelphia, Pa., with about 25 employees. Two large U.S. firms (Rockwell International, Reading, Pa., and Barber-Colman Co., Rockford, Ill.) built significant numbers of tricot and Raschel machines until 1975; these two firms withdrew from the business and have not produced any such machines since then. There is no other known production of warp knitting machines in the United States.

Parts.—In recent years, all U.S. textile machine manufacturers except for one have abdicated the production of parts of these machines to foreign producers. The Cidega Machine Corp. of River Edge, N.J., also produces a complete line of component parts for its machinery.

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[6] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column numbered 1 applies.

[7] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

DOMESTIC PRODUCTION AND EXPORTS

Machines and parts.—The value of the production of warp knitting machines and component parts in the United States is not published. However, Raschel crochet knitting machines and component parts sales by the Cidega Machine Corp. were less than $1.5 million annually during 1981 and 1982. Cidega exports its machines to Brazil, Mexico, the United Kingdom, and Canada. There are no other known domestic producers or exporters of warp knitting machines, or of component parts for these machines.

U.S. IMPORTS AND APPARENT CONSUMPTION

Machines.—Imports of machines under TSUS item 670.20 were as follows during 1978–82.

Year	Quantity (units)	Value (1,000 dollars)
1978	10,924	$17,846
1979	12,962	15,939
1980	16,356	12,275
1981	12,918	23,038
1982	15,125	15,494

West Germany is the world's largest producer of warp knitting machines; trade sources estimate that one West German firm, Karl Mayer, accounts for 75 percent of world sales of this product. West Germany accounted for 73 percent of all U.S. imports under item 670.20 in 1982 and 82 percent in 1981. Switzerland, Italy, Japan, and the United Kingdom accounted for most of the remainder.

The only warp knitting machines known to have been made in the United States were the Raschel crochet machines built by the Cidega Corporation. Imports of Raschel crochet machines, competitive with those made by Cidega, would be allowed duty-free entry under this legislation. Such machines are imported from Italy, Switzerland, and Spain and, although imports from these countries are not large by comparison with imports of warp knitting machines from West Germany, they are significant in the narrower field in which Cidega operates. The staff is advised, however, that Joan Fabrics Corp. (the owner of Cidega) takes the position that they would enjoy a net gain from the reduction of the duty rate to zero. This is based on a consideration of the large volume of warp knitting machinery which Joan Fabrics purchases from foreign sources compared with a much smaller sales volume from Cidega.

Parts.—Imports of non-enumerated parts for all knitting machinery (under TSUSA item 670.7440) during 1978–82 were as follows:

[In thousands of dollars]

Year:	*Value*
1978	$12,325
1979	11,718
1980	15.984
1981	12,121
1982	10,834

The percentage of the value of imports classified under TSUSA item 670.7440 that were parts for warp knitting machines is unknown.

West Germany is the world's largest producer of warp knitting machines, and probably the largest source of U.S. imports of warp knitting machines. West Germany accounted for 43 percent in 1981, and 42 percent in 1982, of all U.S. imports under TSUSA item 670.7440.

POTENTIAL ANNUAL LOSS OF REVENUE

Machines.—The average annual customs revenue loss resulting from imports of these machines provided for in item 670.20 would be approximately $821,181. This estimate is based on 1982 import levels and on the staged reductions of the tariff rates scheduled for 1983–87. Annual revenue loss estimates are shown as follows:

Estimated annual revenue loss, 1983–87

Year:	*Item 670.20* [1]
1983	$914,146
1984	867,660
1985	821,182
1986	774,700
1987	728,218

[1] The staff estimates that all imports of machines under TSUS item 670.20 would be eligible for duty-free entry under this legislation.

Parts.—The average annual customs revenue loss under item 670.7440, assuming all of this 7-digit category would be accorded duty-free treatment, would be approximately $574,202. This estimate is based on 1983 import levels and on the staged reductions of the tariff rates scheduled for 1983–87. Annual revenue loss estimates are shown as follows:

Estimated annual revenue loss, 1983–87

Year:	*Item 670.7440*
1983	$639,206
1984	606,704
1985	574,202
1986	541,700
1987	509,198

TECHNICAL COMMENTS

The Committee should be aware that, because of the "dependent" rate of duty for certain parts of knitting machines,[8] this legislation will not only provide permanent duty-free treatment for the machines but also for certain non-enumerated parts of these machines.

In order to provide for removal of the LDDC rates from the TSUS when they expire, the following language is suggested:[9]

"Whenever the rate of duty specified in column numbered 1 for item 670.21 (as added by subsection (a)) is reduced to the same level as the corresponding rate of duty specified in the column entitled "LDDC" for such item, or to a lower level, the rate of duty in such column shall be deleted."

STATEMENT OF KARL SPILHAUS, PRESIDENT, NORTHERN TEXTILE ASSOCIATION

The Northern Textile Association represents textile manufacturers located principally in the Northeast but also in various other parts of the country. The Elastic Fabric Manufacturers Council of the Association includes the principal producers of warp knit elastic fabrics in the United States.

Members of the Northern Textile Association strongly support H.R. 1583, introduced by Representative Schulze, which would permanently remove the Column I rate of duty on warp knitting machines. This duty has been temporarily suspended since 1980 and this suspension is scheduled to expire on June 30, 1983.

NTA believes that there is no longer a need for a tariff to be imposed on imports of these machines because there has been no domestic production of the warp knitting machinery used by our industry for the last eight years. During this time significant advances have been made by foreign manufacturers of this equipment. The result is a new generation of machinery which will enable warp knit fabric mills to produce a more competitive product for both domestic and export markets.

We estimate that there are currently about 230 warp knit fabric plants located throughout the country employing 19,300 persons with an estimated combined payroll in excess of $250 million (this is shown in Table A). Today, many of these firms manufacture products for export as well as for domestic consumption.

While it is difficult to ascertain the number of Tricot and Raschel warp knitting machines now in use by these mills, we estimate approximately 10,200 machines are being used in the production of all warp knitted fabrics. The elastic fabric segment represents about 15 percent of the entire warp knit industry.

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[8] TSUS item 670.74 makes the rate of duty for parts "dependent" upon the rate for the machine itself.

[9] See section 106, Pub. L. No. 97-446, effective January 12, 1983, for similar language.

Approximately 718 warp knit machines were imported for purchase during the two-year period of 1981–82. Based on the average cost of each machine, the temporary suspension of duty during that period resulted in savings of $2.2 million to our industry (Table B).

If the existing U.S. duty on these machines of 5.9% ad valorem were restored, our domestic warp knit mills would be placed at a severe competitive disadvantage with foreign producers. Our international competitors located in Western Europe, for example, do not pay tariffs on these machines.

The warp knitting machines are produced principally in West Germany, although some production occurs in a few other European countries. If we purchase these new, foreign-made machines, which sell at prices between $30,000 and $100,000 per unit, we would be penalized by the duty which would amount to $1,800 to $6,000 per machine; this of course, must be reflected in the ultimate price of the product in the market place. If, on the other hand we do not purchase this machinery, our products will not benefit from the design and manufacturing flexibility of this new generation of equipment.

This problem was recognized during the 1979 Multilateral Trade Negotiations and the duty on warp knitting machines is now phasing down somewhat—from 7 percent in 1979 to 4.7 percent by 1987 (Table C). This step, however, provides little relief and we firmly believe that there is simply no basis for any tariff whatsoever in view of the absence of any domestic manufacturer of this machinery. Technological development in this area is so advanced that no alternative to foreign sources for these machines is available. The Trade Subcommittee recognized this three years ago and initiated the current duty suspension which has allowed us to begin our reequipment programs.

Enactment of H.R. 1583 will be beneficial to American manufacturers and consumers. Eliminating the duty will encourage U.S. firms to continue to replace outmoded equipment. Purchasing the new equipment without the penalty of a tariff will also mean that a greater variety of products will be available to the consumer. It will make our products more competitive in both domestic and export markets.

Our purchases of these machines will stimulate both employment and exports. The U.S. warp knit elastic fabric industry has worked diligently to expand its share of foreign markets. Warp knit elastic fabrics are used in body-support garments, swimwear, and other apparel for sport and recreational uses as well as for health care and industrial fabrics. Since 1980, exports of these fabrics have reached a value of $6.5 million annually and are maintaining this level. Exports of special warp knit fabrics of other fibers—and the apparel and made-up goods which are made with warp knit fabrics—add considerably to these export sales.

The versatile warp knit fabrics, both elastic and nonelastic, are in demand by designers and manufacturers. U.S. manufacturers must be prepared to meet increased demands domestically and abroad. We believe that these considerations require removal of a tariff which no longer serves the purpose for which it was intended. We therefore respectfully urge the Subcommittee to favorably recommend H.R. 1583 to the Ways and Means Committee.

Thank you for this opportunity to present our views.

TABLE A.—EMPLOYMENT AND PAYROLL, WARP KNIT FABRIC MILLS [1]

[Dollars in millions]

Year	All employees (in thousands)	Payroll	Production workers (in thousands)	Payroll
1978	23.0	$272.5	19.4	$182.7
1979	24.4	264.0	20.6	200.6
1980	22.7	277.7	19.2	209.7
1981	20.2	(2)	16.9	172.3
1982	19.3	(2)	15.9	163.4

[1] Standard Industrial Classification #2258.
[2] Not available.

Source: U.S. Department of Commerce, Bureau of the Census (Annual Survey of Manufacturers) and U.S. Department of Labor, Bureau of Labor Statistics (Employment & Earnings Reports).

TABLE B.—U.S. IMPORTS OF WARP KNIT MACHINERY[1] AND ESTIMATED SAVINGS ACHIEVED SINCE DUTY SUSPENSION ON WARP KNIT MACHINERY (TSUS 670.2000)

	1981	1982
Tariff rate [2] (percent)	[3] 6.4	[3] 6.1
Number of warp knit machines imported	368	350
Average value per machine[1]	$46,500	$50,000
Savings per machine	$2,976	$3,050
Total savings	$1,095,168	$1,067,500

[1] Based on textile machinery industry estimates.
[2] Suspended by Public Law 96-609 as of June 30, 1980.
[3] Ad valorem.

Table C.—Staged duty reduction multilateral trade negotiations Tariff Schedule of the United States, TSUS 670.2000

[Percent ad valorem]

Prior duty	7.0
1980	6.7
1981	6.4
1982	6.1
1983	5.9
1984	5.6
1985	5.3
1986	5.0
1987	4.7

STATEMENT OF HON. RICHARD T. SCHULZE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA

Mr. Chairman, I want to express my appreciation to you for scheduling hearings on my bill, H.R. 1583, in order that the Subcommittee on Trade might consider the legislation as part of the first round of miscellaneous tariff and trade bills considered during the 98th Congress.

H.R. 1583 would permanently remove the Column I rate of duty on warp knitting machinery. As a result, parts for these machines would also enter the U.S. duty free.

This legislation is the logical extension of a temporary duty suspension which was approved by this Subcommittee in 1980 and ultimately signed into law by the President as part of P.L. 96-609 on December 28, 1983.

Manufacturers of warp knit fabrics have benefited from the temporary duty suspension now in place. Removal of the duty on these expensive machines has enabled them to begin equipping themselves with the sophisticated machinery required to make their products competitive in world markets.

The highly advanced warp knitting machinery is produced principally in West Germany. Our domestic firms cannot obtain these machines in the United States because there is no production of warp knitting machines in this country.

If U.S. firms are to be able to compete in today's highly competitive international markets they must be able to export high quality products that are competitively priced. For this reason, it is essential that they be able to purchase the most efficient and technologically advanced machinery available. Permanent removal of the now-suspended duty on warp knitting machinery will enable domestic warp knit fabric producers to accelerate their re-equipment plans as the economy begins to improve.

During the Subcommittee hearings in 1980 on the temporary duty suspension, the domestic fabric manufacturers argued that they should not be penalized and placed at a competitive disadvantage by their own government which imposed a tariff on machinery which was not manufactured domestically. Experience since the temporary duty suspension has been in place indicates that removal of this duty provides a strong incentive for domestic firms to purchase this much needed equipment. Permanent removal of this duty—coincident with the expiration of the current temporary suspension—is clearly consistent with our policy of encouraging exports by making U.S. products more competitive in foreign markets.

H.R. 1620

To extend until the close of June 20, 1988, the existing suspension of duties on flat knitting machines.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27 and May 10, 1983, the Administration testified that it had no objection to a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

We believe that the effective date of all bills that are not a continuation of current tariff treatment should be no sooner than fifteen days after enactment. Providing an effective date fifteen days after enactment will enable the U.S. Customs Service to notify its field offices and U.S. importers of changes made.

* * * * * * *

H.R. 1620—"To extend until the close of June 30, 1988, the existing suspension of duties on flat knitting machines."

We have no objection to enactment of H.R. 1620. There are no domestic manufacturers of the machines covered by H.R. 1620. Duty free imports of these machines would promote lower investment costs for the U.S. textile industry. The USITC estimates a revenue loss from enactment of H.R. 1620 of $547,173 in 1984, declining to $454,442 in 1988.

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We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 1620, if enacted, would amend the Tariff Schedules of the United States (TSUS) to provide for continued duty-free entry through June 30, 1988, from column 1 countries [1] of power-driven flat knitting machines over 20 inches in width (provided for in item 670.19 or 670.20, part 4E, schedule 6). The duty is suspended by item 912.13 of the Appendix to the TSUS.

DESCRIPTION AND USES

Knitting is the process of forming fabric by creating interlocking loops of yarn, each loop hanging from another. Machines which manufacture such fabric consist of yarn feeds; needle housings in which replaceable hooked needles are installed; cams; drives; and fabric take-up mechanisms. Industrial machines are usually powered by electric motors; other machines may be driven manually. When a machine is operating, the hooked needles move within their respective housings in a manner deter-

[1] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

mined by the cam settings. Each needle in its turn moves through an old loop, hooks onto a yarn end and pulls it through the old loop which is then cast off.

This procedure is accomplished differently in two major types of machines—circular and flat-bed. In a circular knitting machine, the needle housings (or slots) are in a cylinder, positioned over a set of cams which engage the needle butts. As the cylinder rotates over the cams (or in some machines, as the cams rotate in relation to a stationary cylinder), the needles rise and fall as their butts pass over the cams.

Flat-bed knitting machines are distinguished by the flat rather than circular configuration of the needle bed. Two major types of flat knitting machines are the V-bed machine and the links-and-links machine. The V-bed machine is characterized by two needle beds forming a 90-degree angle (as in an inverted V) with the needles crossing at the apex in the course of pulling down loops. V-bed machines are very versatile and can be used to manufacture garment fronts, backs, and sleeves for sweaters, as well as straight yard goods. In the United States, V-beds are typically used to manufacture collars, cuffs, and trim. However, the only V-bed machine manufactured in this country is a narrow-bed machine used for making narrow fabrics such as trim and strapping.

A second major type of flat-bed knitting machine is the links-and-links, or purl machine. This machine includes a pair of needlebeds opposite each other but with both needlebeds on the same horizontal plane. The intervening area is spanned by needles with hooks at both ends. The needles can be transferred from one bed to the other, and can knit on either end depending on the setting of the controlling cams. The characteristic purl stitch of this machine produces a "stretchy" fabric identical on both sides. More intricate cam settings can result in complicated stitching sequences which can duplicate virtually any hand-knit design.

TARIFF TREATMENT

V-bed flat knitting machines, both power-driven and manual, are provided for in TSUS item 670.19. Other power-driven flat knitting machines are provided for in TSUS item 670.20. This provision (670.20) covers knitting machines other than circular machines, except full-fashioned hosiery machines and V-bed flat knitting machines. The knitting machines covered by item 670.20 include warp knitting machines, certain manual knitting equipment, and flat knitting machines other than V-bed; e.g., links-and-links machines.

The MTN staged tariff rates applicable to column 1 imports under items 670.19 and 670.20 are as follows:

[In percent ad valorem]

Item	January 1—							
	1980	1981	1982	1983	1984	1985	1986	1987
670.19	7.6	7.3	6.9	6.6	6.2	5.8	5.5	5.1
670.20	6.7	6.4	6.1	5.9	5.6	5.3	5.0	4.7

The column 2 rate of duty [2] is 40 percent ad valorem for both items. There were no imports from countries subject to column 2 rates of duty in 1982 under 670.19. Column 2 imports under item 670.20 amounted to $36,059 in 1982. The rates applicable to least developed developing countries (LDDS's) [3] are as follows: 5.1 percent ad valorem for item 670.19; and 4.7 percent ad valorem for item 670.20. Imports from LDDC's in 1982 totaled $648.

Articles covered by items 670.19 and 670.20 are eligible under the Generalized System of Preferences (GSP) and are permitted duty-free entry into the United States when imported from designated beneficiary developing countries.[4] During

[2] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[3] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column numbered 1 applies.

[4] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification

Continued

1982, imports valued at $1,350 were entered from beneficiary countries under item 670.19, and imports valued at $57,769 were entered under item 670.20. Whether GSP imports under items 670.19 and 670.20 include the type of machines described in this proposed legislation is unknown.

U.S. PRODUCTION AND EXPORTS

One U.S. firm, Lamb Knitting Machine Corp., (Lamb) Chicopee, Mass., reports that it manufactures negligible amounts of similar knitting machines. Lamb, which employs 10 to 12 people, states that it produces a few narrow-bed,V-bed flat knitting machines for the manufacture of braiding, strapping, and trimming materials. Lamb reports that major markets for exports of its machines include the United Kingdom, West Germany, Greece, and South Africa. There are no other known producers or exports of these machines.

U.S. IMPORTS AND CONSUMPTION

Item 670.19.—During 1978–82, annual imports under item 670.19, V-bed flat knitting machines, were as follows:

[In thousands of dollars]

Year	Quantity (units)	Entered value [1]
1978	612	$5,471
1979	868	3,128
1980	931	5,830
1981	1,168	5,390
1982	1,143	5,830

[1] The Commission staff estimates that almost 100 percent of the annual value of machines entered under item 670.19 consists of the type of flat knitting machines covered by this report.

Imports under item 670.19 include, in addition to power driven machines for industrial use, a small number of inexpensive manual devices, estimated to be fewer than 25 per year. For the most part, these are imported duty free for educational use.

During the period 1978–82, the annual West German share of the U.S. import market ranged between 35 and 62 percent, by value, whereas the combined West German and Swiss share annually accounted for 64 to 85 percent of total imports. Industry sources report that three companies dominate the U.S. import market. They are Universal Maschinefabrik and Stoll & Co., both located in West Germany and Edouard Dubied & Cie S.A. of Switzerland.

Industry sources, including the U.S. manufacturer (Lamb), are of the opinion that import competition would not increase significantly as a result of the continuation of duty-free imports under TSUS item 670.19. The U.S. manufacturer has supplied the domestic market for narrow-bed knitting machinery almost entirely in recent years. The market for knitting machines such as those produced by Lamb has diminished since about 1973 when the double-knit boom, which had stimulated sales of narrow-bed machines as an auxiliary to some double-knit operations, began its steep decline.

Item 670.20.—Annual U.S. imports under item 670.20 during 1978–82, approximately 30 percent of which consisted of flat-bed knitting machinery, were as follows:

[In thousands of dollars]

Year:	*Entered value* [1]
1978	17,846
1979	15,939
1980	12,405
1981	23,038

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and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

1982..... 15,494

[1] The Commission staff estimates that about 30 percent of the annual value of machines entered under item 670.20 consists of the type of flat knitting machines covered by this report.

The U.S. import market for flat-bed knitting machines classified in item 670.20 is dominated by the same three firms (listed previously) which supply the bulk of U.S. imports under item 670.19; a Japanese firm and four Italian firms together comprise a minor import share. U.S. consumption during 1978–82 was satisfied entirely by imports.

POTENTIAL ANNUAL LOSS OF REVENUE

The average annual customs revenue loss under item 670.19 would be approximately $256,336; the average annual loss under item 670.20 would be approximately $235,199, bringing the combined average annual loss of customs revenue to $491,535. This estimate is based on 1982 import levels and on the staged reductions of the tariff rates targeted for 1984–87. Annual revenue estimates are shown as follows:

ESTIMATED ANNUAL REVENUE LOSS, BY TSUS ITEMS, 1984–88

Year	Total	Item 670.19 [1]	Item 670.20 [2]
1984	$547,173	$286,874	$260,299
1985	514,721	368,366	246,355
1986	486,895	254,485	232,410
1987	454,442	235,977	218,465
1988	454,442	235,977	218,465

[1] It is estimated that virtually all imports entered under TSUS item 670.19 would be subject to duty-free entry under this proposed legislation.
[2] It is estimated that approximately 30 percent of all imports entered under TSUS item 670.20 would be subject to duty-free entry under this proposed legislation.

TECHNICAL COMMENTS

We are advised that the Customs Service has received inquiries from importers concerning the relationship of this duty suspension (provided under items 670.19 or 670.20 by item 912.13) to the duty imposed on *parts* of these machines by item 670.74. The duty on parts of textile machinery provided in item 670.74 is: "The rate for the machines of which they are parts". Thus, parts of textile machinery (including the flat knitting machines under consideration) are dutiable at the rate applicable to the "parent" machine. The question presented to the Customs Service in administering item 912.13 is whether the Congress, in enacting item 912.13, also meant to suspend the "dependent" rate for parts of these machines in item 670.74.

If the intent is not to suspend the "dependent" rate of duty on parts, the Committee may wish to add a statement to that effect in its report on this legislation. This statement will serve to clarify the issue for the Customs Service. Alternatively, if the Committee does intend to suspend the "dependent" rate of duty on parts, we suggest that the language of item 912.13 be amended to read as follows:

"Power-driven flat knitting machines over 20 inches in width, *and parts thereof* (provided for in item 670.19, 670.20, or 670.74, part 4E, schedule 6). (New language is in italic.)

H.R. 1624

To amend the Tariff Schedules of the United States to establish equal and equitable classification and duty rates for various cordage products of virtually identical characteristics.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27, 1983, the Administration testified that it objected to enactment of a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

* * * * * * *

H.R. 1624—"To amend the Tariff Schedules of the United States to establish wqual and equitable classification and duty rates for various cordage products of virtually identical characteristics."

We object to enactment of H.R. 1624. Administrative procedures exist through which the interested parties can seek reclassification of these products from a product made of plastics classified in schedule 7 to a textile product in schedule 3. We understand that these procedures are being used, and we believe that this is the appropriate route to follow to determine the essential nature of these products. A change under the present circumstances could subject the United States to claims for compensation or to retaliation by affected countries. We believe that it would be inappropriate to subject the United States to such claims prior to a Customs' decision that reclassification in appropriate. There would be no loss of revenue from enactment of H.R. 1624 since enactment would result in an increase in duties on these types of cordage.

* * * * * * *

We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 1624, if enacted, would result in cordage currently classified in Schedule 7 (Specified Products; Miscellaneous and Nonenumerated Products) being classified in Schedule 3 of the Tariff Schedules of the United States (TSUS) at higher rates of duty than are currently applicable. This would be accomplished by amending TSUS Headnote 1(a), Part 2 to schedule 3 (Textile Fibers and Textile Products) which defines textile cordage.[1] In addition, it would amend the superior heading ("of man-made fibers") to items 316.55 and 316.58 by adding language to include "plastics or other man-made materials".

At present, cordage manufactured from a plastics material (such as polypropylene), which meets the dimensional requirements for man-made fiber "strips", is classified in Schedule 3 as "cordage".[2] However, cordage manufactured from plastics material in the form of "strips", which do not meet the dimensional requirements for man-made fibers "strips", is currently considered to be an article of plastics and classified in Schedule 7. The definition of "cordage", as provided in Sched-

[1] The text of the proposed amendment to Headnote 1(a) is set out in the Attachment.

[2] The dimensional requirements for man-made fiber strips are "over 0.06 inch but not over one inch in width and are not over 0.01 inch in thickness". See TSUS Headnote 3(d), Part 1E, Schedule 3.

ule 3, Part 2, Headnote 1(a), restricts "cordage" to ". . . assemblages of textile fibers or yarns . . .".[3] Imports of cordage-like products which are manufactured from plastic strips, which do not meet the TSUS dimensional requirements for man-made fiber "strips", cannot be classified by the Customs Service as "cordage". Consequently, such cordage-like products are classified in Schedule 7, Part 12, Subpart D, item 774.55 as "Articles not Specially Provided for of Rubber or Plastics: Other" at a column 1 rate of duty[4] of 6.9 percent ad valorem. In addition, item 774.55 receives Generalized System of Preferences (GSP) treatment which means that products of certain designated beneficiary countries receive duty-free status.[5]

Cordage classifiable in Schedule 3 is subject to 1983 column 1 rates of duty of 8¢ per pound plus 12.7 percent ad valorem with an ad valorem equivalent (AVE) of 16.3 percent[6] for TSUS item 316.55 (measuring under 3/16 inch in diameter) and 12.5 cents per pound, plus 15 percent ad valorem with an AVE of 23.5 percent[6] for TSUS item 316.58 (measuring 3/16 inch or over in diameter). Also, cordage classifiable in Schedule 3 is subject to quota restrictions under the Multifiber Arrangement (MFA) and is not eligible for GSP treatment.

DESCRIPTION AND USES

Cordage classifiable in Schedule 3, which comprises twine, rope, and cables, is manufactured from various textile fibers, primarily man-made fibers and vegetable fibers. Man-made fiber cordage is made principally from nylon, polypropylene, and polyester fibers. Such cordage has approximately 2.5 times the tensile strength of the strongest vegetable fiber cordage and is highly resistant to chafing, rotting, and abrasion. It has good wet strength and high elasticity, and is lighter in weight and less water absorbent than vegetable fiber cordage. All sizes (usually measured by diameter) of cordage are produced from man-made fibers, ranging from a small twine used for agricultural purposes to the large ropes (hawsers) used for towing, mooring, or securing ships.

Cordage classifiable in Schedule 7, which comprises twine, rope, and cables, is manufactured from polypropylene filaments or strips. The tensile strength and other characteristics of this cordage is similar to that of textile cordage of equivalent size. And the end uses for this cordage are the same as the end uses for textile cordage. The only difference in the cordage is the width of the polypropylene strips from which it is made.

Based on an analysis of import trade data and an interview with representatives of a leading cordage importer, the cordage presently being imported, which would be reclassified by the enactment of this legislation, consists of polypropylene rope, 3/16 inch and over in diameter. In addition, it is believed that such imports in the future will probably consist also of polypropylene twine measuring under 3/16 inches in diameter to be used for agricultural purposes.

TARIFF TREATMENT

The tables on pages 6 and 7 show the column 1 rates of duty which apply to man-made fiber cordage imported from countries having most-favored-nation status; future column 1 rates of duty negotiated during the most recent Multilateral Trade Negotiations (MTN); column 2 rates of duty[7] which apply to imports from countries

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[3] "Assemblages of textile fibers" are defined to include assemblages of "strips" by Headnotes 2(a) and 3(f), Part 1E, Schedule 3; however, sugh "strips" are limited to those which meet the dimensional requirements of Headnote 3(d), Part 1E, Schedule 3.

[4] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

[5] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of Novemberf 24, 1975, applies to merchandise imported on or after January 1, 1976, and is cheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

[6] Calculated on 1982 imports.

[7] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

designated by the President as being under Communist domination or control; notations concerning the eligibility for duty-free treatment under the GSP, if any; and pre-MTN rates. Since January 1982, when imports of cordage produced from plastic strips which do not meet the TSUS dimensional requirements for "strips" began entering the United States, they have been classified in Schedule 7 (item 774.55) and are dutiable at the rates shown in table B, where they are also eligible for GSP treatment. Moreover, imports from LDDC's under item 774.55 enter at 5.3 percent ad valorem.[8] Under the proposed legislation, these products would be dutiable at the rates shown in table A and probably would not be considered for GSP treatment since they would be subject to textile agreements. There are no concessionary rates for LDDC's under items 316.55 or 316.58.

The United States is a party to the Arrangement Regarding International Trade in Textiles, known as the Multifiber Arrangement (MFA), which provides a mechanism for limiting the level of trade in most textile and apparel articles of cotton, wool, and man-made fibers. The MFA is a multilateral agreement negotiated under the auspices of the General Agreement of Tariffs and Trade (GATT) by representatives of over 50 governments. The MFA originally became effective for 4 years in January 1, 1974, and has been extended twice, the second time through December 1986. It provides the basis for bilateral agreements regulating textile trade. The MFA was established to expand world trade in textiles with particular regard to the economic needs of developing countries which are exporters, while at the same time preventing disruption of the markets of the importing countries. The cordage products classifiable in item 316.55 or 316.58 are subject to restraint under Textile and Apparel Category 605. The cordage products classifiable in item 774.55 are not subject to restraint under the MFA.

[8] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column numbered 1 applies.

Table A.--Cordage of man-made fibers: U.S. rates of duty by TSUS items

(Cents per pound; percent ad valorem)

TSUS item No.	Description	Pre-MTN col. 1 rate of duty	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1--			
			1980	1981	1982	1983
	Cordage:					
	Of man-made fibers:					
316.55	Measuring under 3/16 inch in diameter	12.5¢ + 15%	1/	1/	10¢ + 13.8%	8¢ + 12.7%
316.56	Measuring 3/16 inch or over in diameter	12.5¢ + 15%	2/	2/	2/	2/

TSUS item No.	Description	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1--Continued				Col. 2 rate of duty
		1984	1985	1986	1987	
	Cordage:					
	Of man-made fibers:					
316.55	Measuring under 3/16 inch in diameter	6¢ + 11.5%	4¢ + 10.3%	2¢ + 9.2%	8%	76.5%
316.58	Measuring 3/16 inch or over in diameter	2/	2/	2/	2/	2/

1/ This item was not established until January 1, 1982. Formerly part of item 316.60.

2/ Not affected by the MTN. Formerly part of item 316.60.

Table B.--Certain articles not specially provided for of rubber or plastics; U.S. rates of duty, by TSUS items

(Percent ad valorem)

TSUS item No. 1/	Description	Pre-MTN col. 1 rate of duty	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1--				
			1980	1981	1982	1983	
	Articles not specially provided for, of rubber or plastics:						
	Other:						
774.55A	Other:	8.5%	8.1% 2/	7.7%	7.3%	6.9%	

TSUS item No. 1/	Description	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1--Continued				Col. 2 rate of duty
		1984	1985	1986	1987	
	Articles not specially provided for, of rubber or plastics:					
	Other:					
774.55A	Other:	6.5%	6.1%	5.7%	5.3%	80%

1/ The designation "A" indicates that the item is currently designated as an eligible article for duty-free treatment under the GSP and that all beneficiary developing countries are eligible for such treatment for imports under this item.

2/ Effective July 1, 1980.

STRUCTURE OF THE DOMESTIC INDUSTRY

The number of establishments producing all types of cordage has remained about the same in the past 5 years, numbering approximately 150 in 1982. Over 90 percent of the industry's total output of man-made fiber cordage is produced by 15 mills. Even though the large producers may offer most types and sizes of cordage for sale, they do not produce a complete line of cordage. Rather, these producers purchase some of their cordage from an importer or another domestic manufacturer and add it to their line of merchandise.

DOMESTIC PRODUCTION

The quantity of U.S. production of man-made fiber cordage increased from 1978 to 1979, and then began declining; production amounted to 106 million pounds, valued at $140 million in 1982, as shown in the following tabulation:

Domestic producers are located throughout the United States, with the Northeastern States having the largest concentration in output. Total employment for Standard Industrial Classification (SIC) Industry Group No. 2298 (Cordage and twine) declined from 9,500 in 1977 to approximately 7,000 in 1982.[9] A decline in demand in the last few years due to the worldwide economic slump has contributed to the decrease in employment. At present, most cordage mills are operating at approximately one-third of their production capacity.

The following firms are leading domestic producers of man-made fiber cordage:

(1) American Manufacturing Co., Inc., Honesdale, Pennsylvania
(2) The Cordage Group, New Orleans, Louisiana
(3) Exxon Chemical Company, Houston, Texas
(4) Tubbs Cordage Company, San Franscisco, California
(5) Wall Industries, Inc., Beverly, New Jersey

[In thousands of dollars]

Year	Quantity (in 1,000 pounds)	Value
1978	107,041	$133,676
1979	133,369	177,513
1980	127,010	156,993
1981	126,807	163,806
1982	106,486	140,344

Source: Estimated by the staff of the U.S. International Trade Commission from data and information obtained from the Cordage Institute.

Approximately 45 percent (by quantity) and 60 percent (by value) of domestic production consists of rope that is 3/16 inch and over in diameter. About half of this rope is made of polypropylene, one-fifth made of nylon, one-fifth made of a combination of man-made fibers, and the remainder made of polyester.

Twines account for about 55 percent (by quantity) and 40 percent (by value) of domestic production. About 85 percent of this twine consists of polyester, with the bulk of it used for agricultural purposes.

Different factors affect the size of production of cordage, since it is used by the marine, industrial, agricultural, and recreational industries. However, the decline in domestic production of cordage during the 1978–82 period was due primarily to the drop in demand for agricultural twines.

U.S. IMPORTS

The quantity of U.S. imports of man-made fiber cordage decreased steadily from 1978 to 1980, and then increased, amounting to 2.7 million pounds, valued at $4.5 million in 1982. The unit value was $1.17 per pound in 1978, dropped to $1.15 per pound in 1979, and then increased annually to $1.70 per pound in 1982. U.S. imports of such cordage are shown in the following tabulation:

[9] This SIC Group includes all types of cordage.

[In thousands of dollars]

Year	Quantity [1] (in 1,000 pounds)	Value [1]
1978	3,219	$3,779
1979	2,462	2,842
1980	1,939	2,888
1981	2,394	3,917
1982	2,668	4,532

[1] Import data shown do not include braided cordage or cordage-like products classified in Schedule 7. Estimated imports of these latter products under Schedule 7 amounted to 5 million pounds, valued at $6 million, in 1982.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Korea and Japan have been the sources of the majority of imports of man-made fiber cordage in recent years, accounting for 64 percent of the quantity and 72 percent of the value in 1982. Such imports from Korea had a unit value of $1.24 per pound, while imports from Japan were much higher at $4.25 per pound. The majority of the Japanese imports consisted of the smaller diameter cordage (under 3/16 inch) which generally has a higher unit value than the larger diameter cordage (3/16 inch and over). The majority of Korean imports consisted of the larger size cordage; i.e., 3/16 inch and over in diameter. There were no imports of man-made fiber cordage supplied by column 2 countries in 1982.

Leading importers of man-made fiber cordage (TSUS items 316.55 and 316.58) are Frank W. Winne & Son, Inc., Philadelphia, Pennsylvania; Industrial Liaison, Inc., Costa Mesa, California; Fibers South, Inc., Trussville, Alabama; Ed Alexander, Inc., Costa Mesa, California; Nichimo, Inc., Seattle, Washington; and Atlantic Steamer Supply Co., Hoboken, New Jersey.

The ratio of imports to apparent consumption ranged between 1.6 to 3.1 percent during the 1978–82 period.

U.S. EXPORTS

U.S. exports of cordage of man-made fibers increased from 1978 to 1979, then fell sharply to 3.5 million pounds, valued at $10.0 million in 1982, as shown in the following tabulation:

[In thousands of dollars]

Year	Quantity (in 1,000 pounds)	Value
1978	5,941	$8,517
1979	6,922	9,580
1980	5,323	10,227
1981	3,398	9,699
1982	3,480	9,981

Source: Compiled from official statistics of the U.S. Department of Commerce.

Although the quantity of exports has fluctuated downward, the unit values followed a pattern similar to imports. The unit value was $1.43 per pound in 1978, dropped to $1.38 per pound in 1979, then increased annually to $2.87 per pound in 1982.

Canada has been the largest recipient of U.S. exports of man-made fiber cordage in recent years. In 1982, Canada received more than one-fourth of the value ($2.6 million) of total U.S. exports. Other important export markets are Egypt, Australia, Korea, Brazil, Mexico, and the United Kingdom.

The ratio of exports to domestic production of man-made fiber cordage was 3.3 percent of the quantity and 7.1 percent of the value in 1982. No U.S. firm depends entirely on exports as a main source of revenue. The principal exporting firms are also the principal domestic manufacturers.

APPARENT U.S. CONSUMPTION

Apparent U.S. consumption of cordage of man-made fibers increased from 1978 to 1979, fluctuated during 1980 and 1981, and then declined to 105.7 million pounds,

valued at $134.9 million in 1982 as shown in the following tabulation:

[In thousands of dollars]

Year	Quantity (in 1,000 pounds)	Value
1978	104,319	$128,938
1979	128,909	170,775
1980	123,626	149,654
1981	125,803	158,024
1982	105,674	134,895

Source: Compiled from official statistics of the U.S. Department of Commerce for exports and imports; data on production estimated.

During 1978–82, imports supplied less than 3.5 percent of the quantity and value of annual consumption. The increase in apparent consumption during 1979–1981 was due primarily to the larger demand for twine used for agricultural purposes. The sharp decline in 1982 was due to the smaller demand for agricultural twine.

POTENTIAL ANNUAL GAIN OF REVENUE

Based on official import statistics for 1982, the potential gain in revenue resulting from a reclassification of certain man-made fiber cordage from Schedule 7 to Schedule 3 is estimated to be $1.1 million per annum. The estimate is based on 1982 imports of cordage-like products classified in Schedule 7, as reported by leading cordage importers.[10] However, if this legislation is not enacted, there will probably be more of these products imported under Schedule 7 in the future and less cordage imported under Schedule 3. As a result, the application of lower rates of duty in Schedule 7 could result in some loss of revenue.

GATT CONSIDERATIONS

Enactment of this legislation would result in a unilateral increase in the rate of duty applicable to cordage presently classifiable in item 774.55, contrary to the requirements of Article II of the GATT. This action could result in claims for compensation by principal suppliers. The legislation would also eliminate the tariff preference, presently in effect with respect to this product, for imports from the Least Developed Developing Countries (LDDCs).

TECHNICAL COMMENTS

Line 7, page 1 should read "fibers" in lieu of "fiber". Line 1, page 2 should read "Of man-made" in lieu of "Of manmade". The TSUS defines the term *"man-made fibers"* in Headnote 2(a), Part 1E, Schedule 3. To be consistent with the spelling of *"man-made"* presently in use in the TSUS, the Committee may wish to amend the references to "manmade materials" (line 6, page 1 and line 1, page 2) to conform to present TSUS usage; i.e., "man-made materials".

Attachment

Headnote 1(a), Part 2, Schedule 3, TSUS, as amended by H.R. 1624 and S. 230, 98th Congress—

PART 2.—CORDAGE [11]

Part 2 headnotes:

1. For the purposes of this part—

(a) the term *"cordage"* means assemblages of textile fibers or yarns, *plastics or manmade materials,* in approximately cylindrical form and of continuous length, whether or not bleached, colored, or treated, designed and chiefly used as an end product, and compromising cable, rope, cord, and twine, but the term does not include—

(i) yarns (see part 1 of this schedule), or

[10] Estimated imports of these cordage-like products under Schedule 7 during 1982 amounted to 5 million pounds, valued at $6 million.

[11] Material proposed to be inserted is italicized.

(ii) braids or elastic articles (see part 4A of this schedule and part 1B of schedule 7);

AMERICAN FARM BUREAU FEDERATION,
Washington, D.C., April 15, 1983.

Hon. SAM GIBBONS,
Chairman, Trade Subcommittee, Ways and Means Committee, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN GIBBONS: Farm Bureau, representing over three million member families, is concerned that H.R. 1624, which would substantially increase the duties on polypropylene cordage and twine, will be included in an omnibus tariff bill during this session of Congress. If passed, this legislation would significantly increase the duties on baler twine to American farmers. It is estimated that the proposed duties would add about $4.00 per bale or $.20 per pound to the cost of imported polypropylene baler twine. Some years ago Congress exempted imported sisal baler twine from import duties. We believe that this new material should be accorded the same treatment.

We want to call to your attention the possibility of this additional burden which would be added to the already high production costs of farmers, especially those who produce and market hay. We would appreciate your efforts to defeat this proposal when it is considered by the Trade Subcommittee.

Please make this letter part of the record on the legislation.

Sincerely,

JOHN C. DATT,
Secretary and Director,
Washington Office.

STATEMENT OF HON. DOUG BARNARD, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF GEORGIA

H.R. 1624 would remove the distinction currently being made by the U.S. Customs Service between plastic ropes of identical characteristics and use. This distinction permits identical importations to be classified under different item numbers in the Tariff Schedules at substantially different duty rates. Specifically, if the strips from which the rope is made are wider than an inch, then the rope is imported under reduced rates of duty and without any limits on the quantity that may be imported.

This circumstance is the result of a fairly recent ruling by the Customs Service—a ruling made, I would add, without benefit of a public hearing to determine the effects on the domestic cordage industry. Those effects have the potential to be disastrous. In my home state of Georgia, six manufacturing operations employ about 800 people—650 of whom live or work in my district. If this loophole is not closed, as many as 200 people, or 25 percent of those employed, may lose their jobs.

H.R. 1624 is simple in its application and would affect only two item numbers in the Tariff Schedules. It would permit all rope manufactured of man-made materials to be entered under the cordage items in the Tariff Schedules, and it would permit the Customs Service to classify a piece of rope as rope without sending it to a laboratory to determine whether it is made of strips greater or less than one inch in width.

I urge the Committee to end this anomaly in the Tariff Schedules by reporting H.R. 1624 as quickly as possible.

STATEMENT OF A. J. BOWER, PRESIDENT, BRIDON CORDAGE INC.

The Bill HR 1624 introduced by Congressman Pete Stark is designed to redress an unintentional, inadvertent discrepancy in the custom laws. This discrepancy allows cordage to enter the country under different tariff schedules of substantial differing duty rates.

This situation, if allowed to continue, will irreparably damage the cordage industry to the extent that it may be entirely obliterated if indeed it is not already too late.

As you know, baler twine is a cordage product and is manufactured by our company in Albert Lea, Minnesota. We employ 75 persons at this location and expect a similar fate to befall us if matters are not rectified.

Some farm groups had contended that the price of twine would increase as the result of the enactment of this legislation. Recently, Universal Cooperatives, representing the majority of member cooperatives in the United States, have changed their position and support the enactment of this legislation, as they believe that this is in the best interest of their farmer members.

We therefore urge you to support this legislation for it is of vital importance to the health of the domestic cordage industry of this country.

MAN-MADE FIBER PRODUCERS ASSOCIATION, INC.,
Washington, D.C., May 3, 1983.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The Man-Made Fiber Producers Association is in strong support of two bills, H.R. 1910 and H.R. 1624, which are subjects of hearings before your Subcommittee on April 27 or May 5. Our Association represents manufacturers who produce 90 percent of man-made fibers manufactured in the United States. Man-made fibers, in turn, account for 75 percent of textile mill consumption.

H.R. 1910 would correct an anomaly which allows textile fabrics coated with rubber or plastic to be classified as plastics. This bill would correct results from two recent Customs Court cases which overturned the intent of Congress and which have the potential for damaging the American textiles and coatings industries and for causing significant losses of customs duties.

When classified in schedule 3, the textile schedule, these coated fabrics were subject to duties as high as 13 percent ad valorem plus 10¢ a pound. As a result of the court decisions, these fabrics now are subject to duties ranging between 3.7 percent and 5.3 percent. However, as classified in schedule 7, these products are eligible for the Generalized System of Preferences and duty-free treatment.

Coated fabrics are an important segment of the domestic textile industry, which is already beleaguered by imports. They are used to make such products as tarpaulins, sports equipment, pollution and erosion control fabrics and safety equipment. The domestic market amounts to about 460 million square yards a year. At an estimated value of $3.00 a yard, this market is worth more than $1.3 billion.

We likewise support H.R. 1624 which would make certain that nearly identical articles intended for the same purpose—in this case, cordage—would be classified under the same tariff schedule line. Cordage of man-made fibers traditionally has entered the country under TSUS numbers 316.55, 316.58, 348.00 and 348.05. However, a U.S. Customs Service ruling now allows some of these products which measure over an inch in width to enter the country under 774.5595 as "Articles not specifically provided for, rubber or plastic: Other." This carries a duty of 6.9 percent ad valorem compared to a duty of as high as 16.8 percent ad valorem for similar articles under the textile schedule. When these products are classified in the textile schedule, they are subject to the Multifiber Arrangement. When they are classified as plastics, they no longer are subject to that international agreement.

We sincerely hope that you and your Subcommittee will approve these two bills, and we stand ready to provide any further information you may need.

Sincerely,

CHARLIE W. JONES,
President.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., May 10, 1983.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, Longworth Building, Washington, D.C.

DEAR MR. CHAIRMAN: I urge your support for H.R. 1624, to amend the Tariff Schedules to *establish equal and equitable* classification and duty rates for various cordage products of virtually identical characteristics.

The samples enclosed clearly illustrate the problem addressed by this legislation. Imports of Rope "A" are assessed a duty of 12½¢/lb. plus 15% ad valorem. In addition, the rope's weight will be charged to an absolute quota; in the case of Korea, the 1983 quota is 1.6 million pounds. Rope "A" is manufactured with 100% polypropylene monofilament made from yarns of split film *less than one inch wide.*

When Rope "B" enters from Korea, however, it comes in free of duty, and it is subject to *no* quota. The reason: more than 50% of Rope "B's" yarns have been twisted from split polypropylene film whose dimensions are *more than one inch wide* and less than .01 inch thick.

This 1" standard in the tariff schedule has become a gaping loophole that allows two *identical importations of polypropylene cordage of identical characteristics and use to be classified under differing tariff schedule categories at substantially differing duty rates, merely because one product was manufactured from plastic material over one inch in width while the other was not.*

The farm community *previously* opposed this legislation (H.R. 7107 in the 97th Congress). After a recent twine committee meeting of University Cooperatives, Inc., an association of more than ten regional farm coops, the members were polled on H.R. 1624. On May 4, 1983, University Cooperatives, with ten members concurring, sent the following message to the Cordage Institute:

". . . . We, however, are now reappraising the situation and are of the opinion that removal of the duty would in the long run *cost the farmer more money* . . . . Should the duty be removed, the market will be vulnerable to international cartel, price fixing and violent swings in the market."

Thus, the misunderstanding previously circulated about the legislation's effect on the price of baler twine, and on the agricultural community as a whole, has been cleared up.

I am confident that the Administration never intended to negotiated an MFA agreement where a slight, almost imperciptible change in the method of manufacture, but not the material, could destroy the agreement.

H.R. 1624 makes minor changes in the Tariff Schedules to insure equal treatment of "like" importations of cordage. Passage of this bill, and its Senate companion S. 230, would correct the tariff discrepancy, and preserve the jobs of over 3,000 American workers and the health of the domestic cordage industry. It is supported by our colleagues, Representative Jim Martin, Broyhill, Fazio, Barnard and Horton.

I urge your favorable consideration of H.R. 1624.

Sincerely,

FORTNEY H. (PETE) STARK, Jr.,
Member of Congress.

UNITED STATES LINES, INC.,
Cranford, N.J., April 15, 1983.

Hon. SAM GIBBONS,
Chairman, Trade Subcommittee, Ways and Means Committee, House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: H.R. 1624 is pending before the Trade Subcommittee and will be the subject of hearings in the near future. I write to express the opposition of United States Lines, Inc., to that legislation.

H.R. 1624 would classify as textiles cordage made from plastic materials. If enacted, the bill would increase tariffs on plastic ropes imported into the United States by about 25 percent. As a consumer and carrier of synthetic tying materials, we urge the Committee to reject this bill.

The maritime industry purchases large quantities of rope for innumerable purposes. Though imports of plastic rope comprise only a small portion of cordage purchases, they have provided an attractive alternative and promoted beneficial price competition. Reclassifying such plastic materials as textiles will make them noncompetitive, and under the U.S.-Korea bilateral agreement on textiles probably bar them from the American marketplace. If this occurs, price increases for domestic cordage are a certainty and will divert the resources of American ship operators from other pressing needs.

Further, we have enjoyed carrying raw materials to make plastic cordage to foreign nations and returning the finished product to American ports. This trade will disappear if H.R. 1624 is enacted.

The United States and most of the world have long followed the practice of objectively distinguishing between plastics and textiles. We believe that practice should be continued.

Thank you very much for considering our views on this legislation. We would appreciate it if you would make this letter part of the hearing record.

Very truly yours,

A. J. MAYOR,
Vice President,
Government Relations.

UNIVERSAL COOPERATIVES, INC.,
Minneapolis, Minn., April 27, 1983.

Hon. SAM GIBBONS,
Chairman, Trade Subcommittee, Ways and Means Committee, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN GIBBONS: I am writing to express our opposition to a bill, H.R. 1624, which is before the Trade Subcommittee. That legislation would amend the Tariff Schedules to classify cordage and twine made from plastic materials as a textile and subject such cordage to increased duties.

We believe that it would be unwise for Congress to precipitously make such a sweeping change in our customs laws. Much of the cordage covered by the proposed legislation is baler twine used by American farmers. Universal purchases baler twine for farm cooperatives across the country and estimates that if H.R. 1624 were passed, the cost of this type of imported baler twine to the farmer would increase by as much as $4.00 per bale or $.20 per pound.

In 1953, Congress exempted imported sisal baler twine from import duties. We believe it would be extremely unwise to now subject twine made from plastic materials to such duties.

As you know, farmers are facing a number of hardships. H.R. 1624 would impose still more costs. We hope that your subcommittee will take the steps necessary to defeat this legislation.

If possible, please make our views part of the record of this bill.

Thank you very much.

Sincerely,

FLOYD E. GRABIEL,
General Counsel.

H.R. 1667

To suspend the duty on MXDA (meta-Xylene-Diamine and 1,3-BAC (1,3-Bis[aminomethyl]-cyclohexane)) until July 1, 1986.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27 and May 10, 1983, the Administration testified that it has no objection to a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

We believe that the effective date of all bills that are not a continuation of current tariff treatment should be no sooner than fifteen days after enactment. Providing an effective date fifteen days after enactment will enable the U.S. Customs Service to notify its field offices and U.S. importers of changes made.

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H.R. 1667—"To suspend the duty on MXDA (meta-xylene Diamine and 1,3-BAC (1,3-Bis (aminomethyl)-cyclohexane) until July 1, 1986."

We have no objection to enactment of H.R. 1667. We are not aware of any current domestic production of these chemicals in the United States. One U.S. company does produce a possible substitute for MXDA in the manufacture of certain epoxies, but we understand that this substitute is used captively by that company. We believe that the duty suspension will enable U.S. purchasers to minimize costs while developing a U.S. market for products made from MXDA and 1,3-BAC. We understand that if this market development effort is successful, facilities to produce MXDA and 1,3-BAC will be established in the United States. A duty suspension, therefore, may lead to new employment opportunities and replacement of imports with domestic production. The USITC estimates that enactment of H.R. 1667 would result in potential revenue losses of $230,000–$280,000 over the next three years.

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We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

BACKGROUND

H.R. 1667, if enacted, would temporarily suspend the column 1 rate of duty [1] on MXDA and 1,3-BAC, classified in items 404.88 and 407.05, respectively,[2] of the *Tariff Schedules of the United States* (TSUS). The legislation would amend subpart B of part 1 of the Appendix to the TSUS to add a new item 907.04, with free entry for articles from column 1 countries for a three-year period, commencing on the date of enactment and ending on or before June 30, 1986. The column 2 rate of duty [3] would remain unchanged.

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[1] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

[2] See Tariff treatment, below.

[3] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

Currently, these chemicals are not produced in the United States. The firm seeking the temporary duty suspension for these chemicals is planning to produce them domestically if it can develop a viable market in the United States. The duty suspension would make the cost of the final products competitive in the domestic market during the commercial development program, which will rely on imported supplies of the above chemicals during the construction period of the new domestic plant.

DESCRIPTION AND USES

The synthetic organic chemical meta-xylendiamine (referred to as "MXDA") is produced from meta-xylene, a compound which may be used in solvents or insecticides or as an intermediate in dyes. 1,3-Bis (aminomethyl) cyclohexane (or "1,3-BAC") is produced from MXDA. The chemical MXDA is used primarily as an epoxy resin hardener in the production of epoxy surface coatings and in concrete patching preparations, while 1,3-BAC is used in the manufacture of specialty adhesives for aircraft and aerospace applications and as a chain extended for certain polyurethanes.

TARIFF TREATMENT

As a result of the Trade Agreements Act of 1979,[4] MXDA is presently classified in TSUS item 404.88, other amines and their derivatives provided for in the Chemical Appendix to the TSUS. 1,3-BAC is classified in TSUS item 407.05, other benzenoid-derived products not provided for in subpart A or C of part 1 which are provided for in the Chemical Appendix to the TSUS. As shown in the table annexed to this report, item 404.88 has a column 1 (MFN) duty rate of 1.4 cents per pound plus 18.8 percent ad valorem. The column 2 rate is 7 cents per pound plus 60 percent ad valorem, and the LDDC rate [5] is 1.1 cents per pound plus 18.8 percent ad valorem. Item 407.05 has a column 1 (MFN) duty rate of 1.7 cents per pound plus 16.8 percent ad valorem, a column 2 rate of 7 cents per pound plus 53.5 percent ad valorem, and no LDDC rate of duty. The column 1 rate of duty for item 404.88 is scheduled for annual staged reductions within the framework of the Tokyo round of the MTN, as shown in the table annexed to this report. Item 407.05 is not scheduled for any staged reductions. The chemicals classified in items 404.88 and 407.05 are not eligible for duty-free entry under the Generalized System of Preferences (GSP).[6]

STRUCTURE OF THE DOMESTIC INDUSTRY

During the past five years, these two chemicals have not been produced commercially in the United States. The domestic importer has surveyed other domestic chemical firms in an effort to obtain a domestic producer, but the relatively small amounts required at the present time are insufficient to justify the cost of constructing and maintaining production facilities for these chemicals.

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[4] Section 223(d), 93 Stat. 205, 19 U.S.C. 1202. As a result of the Customs Valuation Agreement of the Multilateral Trade Negotiations (MTN), the "American selling price" (ASP) method of appraising certain benzenoid chemicals was eliminated. The Commission's recommendations, contained in "The Probable Economic Effect of U.S. Adoption of New Rules of Customs Valuation" (Report to the Special Trade Representative on Investigation No. 332-98) formed the basis for the provisions contained in section 223(d). Under the ASP method of appraisement, imported benzenoid products considered to be "competitive" with similar domestic products (accomplishing results in substantially the same manner) were appraised on the basis of the U.S. wholesale price of the similar domestic product. Other imported products were appraised based on the "United States value," relying on the wholesale price of the imported product, with such products generally assessed a lower duty than those appraised under ASP.

[5] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column numbered 1 applies.

[6] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

DOMESTIC PRODUCTION

At the present time, the Commission staff is unable to find any domestic firms reporting production of these chemicals on a commercial basis. The importer, Sherwin-Williams Co., has stated that it may produce these chemicals in the United States in the next few years if a viable domestic market can be developed.

U.S. IMPORTS

In 1982, imports of MXDA, by quantity, were approximately 36,000 pounds from Japan. Imports of 1,3-BAC during that year amounted to approximately 7,000 pounds, also from Japan. The only importer of these chemicals during the past five years was Sherwin-Williams Co. The Commission did not find any imports from column 2 sources.

U.S. imports for the past five years were as follows: [7]

Year	Quantity (pounds)	
	MXDA	1,3-BAC
1978	10,000	1,000
1979	50,706	4,000
1980	44,092	8,000
1981	66,138	12,000
1982	36,000	7,000

U.S. EXPORTS

According to an industry source, these chemicals have not been exported in commercial amounts during the past five years. Some small samples, however, have been shipped to Canada.

APPARENT U.S. CONSUMPTION

Apparent domestic consumption of these chemicals in each of the past five years was the same as U.S. imports, since there was no domestic production.

POTENTIAL ANNUAL LOSS OF REVENUE

Based on Commission data and information provided by the domestic importer of these chemicals, the following are estimated revenue losses for a three-year period from 1983 through 1985.

Year:	*Estimated revenue loss* [1]
1983	$41,000
1984	74,000
1985	134,000

[1] Based on an average estimated value for MXDA of $1.40 per pound in 1983, $1.45 per pound in 1984, $1.55 per pound in 1985; and, for 1,3-BAC, $2.10 per pound in 1983, $2.20 per pound in 1984, $2.30 per pound in 1985. Combined imports of these chemicals are estimated at 143,000 pounds in 1983, 250,000 pounds in 1984, and 432,000 pounds in 1985.

TECHNICAL COMMENTS

In order to correct the chemical names of articles cover [1] by the proposed duty suspension, to be consistent with other provisions which set forth the full chemical name before the abbreviation therefor, to reflect the fact that these chemicals are classified in different schedule 4 items, and to ease implementation of the suspension, the following amended version is suggested:

Section 1. That subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by inserting in numerical sequence the following new items:

[7] Data obtained from Commission data and an industry source. The value of imports was not available.

"907.03	m-Xylenediamine (MXDA) (provided for in item 404.88, part 1B, schedule 4).	Free	No change	On or before 6/30/86
907.04	1,3-Bis[aminomethyl] cyclohexane (1,3-BAC) (provided for in item 407.05, part 1B, schedule 4).	Free	No change	On or before 6/30/86"

Sec. 2. The amendment made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the fifteenth day following the date of enactment of this Act.

ANNEX

MXDA (meta-xylenediamine) and 1,3-BAC (1,3-bis[aminomethyl]cyclohexane): U.S. rates of duty, by TSUS items

(Cents per pound; percent ad valorem)

TSUS item No.	Description (Abridged)	Pre-MTN col. 1 of duty 1/	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1--			
			1980 2/	1981	1982	1983
	Amines and their derivatives:					
	Other:					
404.88	Products provided for in the Chemical Appendix to the Tariff Schedules	1.7¢ + 12.5%	1.6¢ + 18.5%	1.5¢ + 18.8%	1.5¢ + 18.8%	1.4¢ + 18.8%
	All other products not provided for in subpart A or C of part 1 derived from benzenoid products:					
	Other:					
407.05	Products provided for in Chemical Appendix to the Tariff Schedules	1.7¢ + 12.5%	1.7¢ + 16.8%	1.7¢ + 16.8%	1.7¢ + 16.8%	1.7¢ + 16.8%

TSUS item No.	Description (Abridged)	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1--				Col. 2 rate of duty
		1984 2/	1985	1986	1987	
	Amines and their derivatives:					
	Other:					
404.88	Products provided for in the Chemical Appendix to the Tariff Scnedules	1.3¢ + 18.8%	1.2¢ + 18.8%	1.2¢ + 18.8%	1.1¢ + 18.8%	7¢ + 60%
	All other products not provided for in subpart A or C of part 1 derived from benzenoid products:					
	Other:					
407.05	Products provided for in the Chemical Appendix to the Tariff Schedules	1.7¢ + 16.8%	1.7¢ + 16.8%	1.7¢ + 16.8%	1.7¢ + 16.8%	7¢ + 53.5%

1/ Rate effective prior to July 1, 1980.
2/ Rate effective after July 1, 1980.

H.R. 1740

To authorize the President to impose a tariff surcharge on the products of certain countries in order to offset the expense of providing United States defense assistance to such countries.

U.S. TRADE REPRESENTATIVE

This is in reply to your request for the views of my Office on H.R. 1740, a bill, "To authorize the President to impose a tariff surcharge on the products of certain countries in order to offset the expense of providing the United States defense assistance to such countries."

H.R. 1740 would temporarily subject imports from Japan, France, and other NATO countries to a surtax. The revenue from such a surtax would be used to offset costs of defense assistance to these same countries for a period to be determined by the President.

The U.S. Trade Representative objects to enactment of H.R. 1740. The selective imposition of tariff surcharges would be contrary to our international obligations. In the General Agreement on Tariffs and Trade (GATT) each signatory country has agreed to extend to all others the most favorable treatment offered to any individual signatory. Each signatory has also agreed not to increase its tariffs above previously agreed levels. H.R. 1740 would cause the United States to violate both of those commitments, subjecting us to claims for compensation or to retaliation by affected countries.

In addition, the United States and its trading partners have recently pledged in several fora to avoid taking trade protectionist measures. The tariff surcharge proposed by H.R. 1740 would be interpreted by our trading partners as just such a measure. Its enactment would likely encourage other countries to disregard their pledges to avoid protectionism.

The Office of Management and Budget advises that submission of these comments is consistent with the Administration's program.

ALMAX SPORTSWEAR CORP.,
New York, N.Y., April 18, 1983.

Mr. JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, House of Representatives, Longworth House Office Building, Washington, D.C.

GENTLEMEN: I am writing in regard to the introduction of HR 1740 which proposes to authorize the President to impose a tariff surcharge on the products of certain countries to offset the expense of providing U.S. defense assistance to such countries.

This bill does no more than doubly burden taxpayers the cost of military foreign aid. We first pay for the aid through direct taxation (i.e. income tax)—now we are asked to pay again through the cost of higher consumer goods.

Furthermore, by burdening these countries with higher duties, importers, such as my firm, will abandon these countries. For example, if the duty is cheaper in a communist country such as China, we will be forced to trade with them. All this can accomplish is the further weakening of our Allies and strengthening of our enemies. A goal that Congress should not actively pursue.

It is amusing to see an attempt in Congress that both hurts our Allies overseas and taxpayers here. This bill accomplishes nothing and harms many.

Sincerely,

NORMAN M. WEISFELD,
Vice President.

24-184 O—83——48

STATEMENT OF HON. RALPH REGULA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. Chairman, I appreciate the opportunity to testify in favor of my bill, H.R. 1740, the Defense Tariffs bill.

During the 97th Congresss, I took two special orders to discuss defense burden-sharing with Japan and our NATO allies. I also introduced this Defense Tariffs bill to give the President the power to impose tariffs on all goods imported from Japan, France, and our NATO allies in levels that would recover our costs of defense assistance to these countries.

On March 1, 1983, I reintroduced my Defense Tariffs bill. This bill would give the President discretion to impose these tariffs, and thus creates a new and powerful bargaining tool for persuading our allies to take seriously their obligations for defending the free world.

After World War II, European and Japanese economies were in chaos. It was obvious that the United States would have to shoulder the greatest portion of allied defense. We assumed this burden with the intent of reducing our share when our allies regained their economic strengths and political stabilities. Since World War II, a generation of Europeans and Japanese has grown up to see their economies achieve parity with that of the United States. U.S. per capita GNP now ranks seventh among our 15 NATO allies and is well below that of Japan. Now that we are squarely in the middle of this group, it seems only fair and reasonable that our defense expenditures be at parity, too.

Our country has become saddled with paying an inequitably high cost for defending our allies. The facts are that Japan, with the second largest economy in the free world, applies less than 1 percent of its GNP to defense, while the U.S. applies over 6 percent. None of our NATO allies are committing nearly as much for defense—in fact, none are even close. On average, our European allies allocate only 3.6 percent of their GNP's for free-world protection and security, and nearly all their defense expenditures are for domestic benefit. By contrast, U.S. defense costs are of great benefit to all free world nations, especially Japan, France, and our NATO allies.

For example, the United States almost unilaterally protects the sea lanes in the Persian Gulf so that the flow of oil from this region is not impeded. Yet, U.S. oil imports from this region were only 8 percent of total U.S. oil consumption during the first half of 1981, while Japan imported 50 percent and France 73 percent of their oil from this region during the same period. The U.K., West Germany, and Italy also rely heavily on Persian Gulf oil.

The United States maintains military installations in thirty different countries or territories worldwide. Japan has no foreign military installations; France has bases in ten countries, and our other allies combined, with the exception of the United Kingdom, have bases in only five countries.

During 1981, U.S. defense expenditures in Japan exceeded $1 billion. As of September 30, 1982, there were 51,000 active duty U.S. military personnel permanently stationed in Japan and Okinawa, with 34,000 dependents. The U.S. maintains over 355,000 military personnel in Western and Southern Europe, with dependent levels at over 280,000. U.S. defense expenditures in NATO countries were $6.3 billion for 1981.

If, over the past decade, the United States had invested only 1 percent of its GNP in defense—more than Japan now does—up to $1 trillion could have been made available for other purposes—such as eliminating our national debt and balancing the budget, capital formation and investment, or funding many programs we can no longer afford. If we had spent on defense what our NATO allies spend as a proportion of their GNP's, we would have freed up for alternative uses nearly half a trillion dollars.

The time has passed for the United States to shoulder the burden of free world defense. Now that our allies' economies are on par with ours, their defense spending should be commensurate with our defense spending.

Negotiations with our allies toward relieving this disparity are exceedingly slow, with small contributions and concessions being made reluctantly and by few countries. It is plain to see that our allies have no real incentive to contribute more to their own defense. Why should they, if we are going to continue to "be there" and protect their interests, allowing their economies to prosper while ours is forced to compete with one hand tied behind its back?

On the other hand, it is unrealistic for the United States to simply pull out and refuse to defend allied interests. The solution lies in convincing our allies of our determination to achieve equity in defense burden-sharing.

My bill does just that by giving the President the necessary clout to insure that we are serious about balancing defense contributions to free world security.

We simply cannot and should not support the rest of the free world, particularly now that their living standards are at levels equal to or greater than our own. My bill continues the free world protection, yet makes our allies pay for it in a way that does not jeopardize free world security.

Thank you for providing this opportunity to testify before your committee.

H.R. 1744

To amend the Tariff Act of 1930 to prevent the exportation or importation of certain vehicles.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 1744, if enacted, would subject any person knowingly importing or exporting, or attempting to import or export, any stolen self-propelled vehicle, aircraft, or part thereof, or any self-propelled vehicle or part thereof whose identification number has been removed or altered, to a civil penalty of $10,000. Any such self-propelled vehicles (as defined in the legislation),[1] aircraft, or parts thereof would be subject to seizure and forfeiture. In addition, any person attempting to export a used self-propelled vehicle [2] would be required to present the vehicle and documentation describing the vehicle and containing the vehicle's identification number to the appropriate Customs officer prior to lading or export. Failure to do so would result in a civil penalty of $500.

According to the sponsor of the legislation, the new provisions would enable U.S. Customs Service officers to deal more effectively with the growing volume of stolen vehicles being moved across U.S. boundaries.[3] The sponsor referred to the ease with which a stolen vehicle can now be exported and to the lack of verification of ownership and of recording of identification numbers; he stated that existing law has not enabled Customs officers to control these exports.

The proposed legislation is identical to section 302 of H.R. 2235, the proposed "Motor Vehicle Theft Law Enforcement Act of 1983"; the latter Act was introduced in the last session of Congress as H.R. 4325. H.R. 2235 would require federal security standards (in addition to current safety standards) and identification numbers on some vehicle parts and components. Among other amendments, most of which are aimed primarily at halting domestic theft and fencing operations, this broader legislation would make importers and exporters of stolen vehicles and parts subject to federal criminal sanctions, in addition to the civil penalties proposed in both H.R. 1744 and H.R. 2235.

BACKGROUND INFORMATION

At present, the only significant statutory provisions under which the Customs Service may take action in regard to traffic in stolen vehicles are those which declare it an offense to make a false statement, orally or in writing, to a Customs officer.[4] However, these provisions afford enforcement authority solely in those situations where information can be shown to be false; the extent of Customs' authority as to exports appears to be more limited than as to imports, since information requirements are less detailed.

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[1] Any self-propelled vehicles designed to run on land and not on rail.

[2] A vehicle as to which equitable or legal title has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser (the first person, other than a dealer acting in his capacity as a dealer, who buys in good faith such a vehicle other than for resale).

[3] Congressional Record of March 1, 1983, E710.

[4] Under 18 U.S.C. 542, one who "enters or introduces, or attempts to enter or introduce, into the commerce of the United States any imported merchandise" through the use of "any false or fraudulent invoice, declaration, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice or appliance, or makes any false statement in any declaration without reasonable cause to believe the truth of such statement, or procures the making of any such false statement as to any matter material thereto without reasonable cause to believe the truth of such statement, whether or not the United States shall or may be deprived of any lawful duties . . . shall be fined not more than $5,000 or imprisoned not more than two years, or both". Forfeiture of the articles under other provisions of law is unaffected. *See also* 19 U.S.C. 1592, which provides for graduated penalties depending on whether the maker of a false statement (including one with material omissions) acted in a negligent or grossly negligent manner or acted fraudulently.

In order to make entry of imported articles, appropriate documents must be filed by either the owner or the consignee or an agent thereof; merchandise is held to be the property of the consignee under the terms of section 483 of the Tariff Act of 1930 (19 U.S.C. 1483).[5] Entry may be made on production of a bill of lading or air waybill or a duplicate bill or of a carrier's certificate, under the Customs Regulations, or on the posting of a bond, under the provisions of sections 484 (19 U.S.C. 1484) and 498 (19 U.S.C. 1498). When entry is made on a carrier's certificate, the carrier must certify that the person bringing the articles to the port of entry is the owner or consignee or an agent thereof. Under Customs Service regulations, if entry is made other than by a common carrier, possession of articles at the time of arrival is sufficient evidence of the right of the possessor to make entry. 19 CFR 141.12. The principal reason for ascertaining the identity of the owner, however, is to locate the person ultimately liable for duties or other charge payable.

There is no explicit statutory proscription on the importation of stolen goods, although specific sections prohibit concealed or otherwise barred importations of narcotic drugs, alcohol, and certain other articles. (That latter type of importation is the federal offense of smuggling. See 18 U.S.C. 545; 19 U.S.C. 1701 et seq.) Where a violation of the customs laws occurs, the merchandise involved may be seized under sections 602 et seq. of the Tariff Act of 1930 (19 U.S.C. 1602 *et seq.*)[6] If smuggling is found to have occurred, the vessels involved may be seized under 19 U.S.C. 1701 and 1703. The Customs Service also enforces provisions of law on behalf of other government agencies.[7] Some of these provisions deal with both imported and exported articles.

For the control of exportations, regulations require the proper clearance of vessels and the filing of outward manifests, export declarations, and other documents. 19 CFR 4.60 et seq. The types of goods being exported and the countries of destination are crucial, since specific types of export licenses must be presented in order to obtain clearance. See 15 CFR 399, Commodity Control List. The most stringent restrictions are placed upon the export of war- or nuclear-related goods, certain high technology goods and machinery, and similar articles of a high degree of importance to security or foreign policy goals, while a general license—available and employed without detailed formalities—is sufficient for the export of most consumer goods and materials for production. Similarly, Customs will halt the export of goods to embargoed countries, such as Cuba, and will scrutinize exports to other countries, such as Communist-controlled nations. Less emphasis, in view of the general goals of export policy and of the volume of shipments, seems to be placed on the ownership of the articles, particularly those which may be exported under general license. See 50 U.S.C. App. 2403.

No specific provision of law proscribes the export of stolen articles, although in a limited context some exports of drugs, alcohol, and similar articles are the subject of federal penalties. 18 U.S.C. 546. Violations of license requirements or other provisions of the Export Administration Act are covered by civil penalties, 50 U.S.C. App. 2410, and the Title 19 penalty for the making of false statements is also available in enforcement of these laws and regulations. However, since most of the subject vehicles may be exported to most countries on a general license, a somewhat informal arrangement with no detailed documents issued, it is considerably more difficult for the Customs Service to examine and evaluate shipments of them, or to use the "false statement" enforcement provisions.

TECHNICAL COMMENTS

Several concerns should be noted as to the proposed legislation as well as to H.R. 2235, whose enactment would make H.R. 1744 unnecessary. First, since no coordinating provisions are included, the legislation may be in conflict with, or at least complicate the administration if, the U.S.-Mexico bilateral agreement. That treaty, which entered into force on June 19, 1937, provides for the return of recovered stolen motor vehicles, trailers, airplanes, and component parts. 50 Stat. 1333, 9 Bevans 1020. Second, the provision for the forfeiture of stolen vehicles may result in

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[5] The consignee may file a declaration providing the name of the owner; if the owner agrees to pay any additional duties owed, the consignee who entered the goods would no longer be liable therefor. Section 485 of Tariff Act of 1930, 19 U.S.C. 1485.

[6] Vehicles and aircraft used in illegal importations of articles may also be seized. 19 CFR 162.22(b). However, this would not seem to apply to illegally imported vehicles or aircraft not used to import articles.

[7] 12 U.S.C. 95a (currrency, bullion transfers), 22 U.S.C. 401 (war materials and ammunition), and 42 U.S.C. 2061-2112, 2131-2140 (nuclear materials) are examples of such statutes, along with many agricultural products provisions.

harm to innocent third parties, who are afforded no assistance in reclaiming their vehicles. Third, the added documentation and verification of ownership contemplated under the new section may be viewed as a prohibited barrier to trade if implemented in a discriminatory fashion. Fourth, the legislation is silent as to what constitutes an attempt to import or export; apart from being vage, it presents substantial risks that errors in enforcement may result in tort claims liability on the part of the government and that actions taken outside U.S. territorial jurisdiction may become the sole predicate for Customs penalties or seizure.

Fifth, if the section is interpreted as mandating Customs action to detect every violation, and to inspect every vehicle to see if its identification number matches documents, it will pose an almost impossible burden for the Customs Service. Sixth, the legislation does not authorize Customs officers to have access to the FBI's systematized records of stolen vehicles; in addition, it should be noted that the cost of checking each vehicle will be significant. Nor does the legislation recognize that not all parts of vehicles are readily identifiable as such and that individual parts do not always bear identification numbers. (This problem would be only partially remedied by H.R. 2235's authorization for requiring identification numbers on up to "a total of four parts and components for any trailer, nine parts and components for any truck, and fourteen parts and components for any other motor vehicle." (Section 101(b)). Other parts would not be marked, and marked parts would need to be inspected.) Seventh, the definition of "self-propelled vehicle" is overly broad and, in the absence of the Tariff Schedules of the United States definitions (or similar statutory guidance) to describe the vehicles concerned, may require verification of ownership of such articles as motorized wheelchairs or golf carts. Finally, it may be difficult to ascertain who is an "ultimate purchaser" under the new section, particularly if that person is a foreign resident or citizen.

An effective date section allowing time to formulate the necessary administrative framework should be added to the legislation.

Statement of the American Car Rental Association

These comments are submitted by The American Car Rental Association (ACRA) to the Subcommittee on Trade of the Committee on Ways and Means in Support of HR 1744, a bill to prevent the exportation or importation of certain vehicles.

ACRA is a trade association comprised of more the 1,500 companies who rent and lease motor vehicles from more than 3,000 locations throughout the United States.

ACRA's members range from small local companies to the larger, nationally recognizable firms such as American International, Avis, Budget, Holiday, National and Thrifty.

As you might expect, the car rental industry is particularly vulnerable to the exportation of stolen motor vehicles. Most of the automobiles in our rental fleets are late model, fully equipped vehicles which are most susceptible to theft, exportation and resale. Many of these stolen vehicles travel "south" to South America, for example, where their value is considerably greater than in the States.

Despite our best efforts to combat this problem, those involved in this illegal enterprise are highly professional and fast moving. They take full advantage of our virtually nonexistent export regulations and we frequently discover that vehicles have exited the country before a theft alarm on the particular vehicle is filed. With no meaningful, legal safeguards on the books to protect us in this area, ACRA's membership as well as the millions of other vehicle owners in this country are all potential and helpless victims of the problem. The best we can do today is to work closely with law enforcement authorities to monitor the activity at points of embarkation in hopes of identifying rental vehicles slated for export. Lack of adequate manpower resources render this at most a hit and miss approach and is clearly not sufficient to make a serious dent in the problem.

For example, one major rental company alone, Avis Rent A Car System, places several thousand vehicles annually into a missing status, of which more than half are outright thefts occurring during the rental or from their facilities. (The balance of the losses are vehicles which are rented and not returned.) Of these thefts some 15% remain unrecovered. We presume that a sizable number of these stolen vehicles are exported.

Recognizing that the Avis fleet only represents a small fraction of the rental vehicles on the road today, you can begin to appreciate the magnitude of the problem nationwide. Informed sources have testified before Congress that at one border alone (Mexico) between 10,000 and 20,000 stolen vehicles leave the U.S. annually.

In order to export a vehicle from the U.S., one need only file a shipper's export declaration describing the make of the vehicle and its approximate value. There is no obligation for an individual to identify the vehicle by Vehicle Identification Number nor is it necessary for that individual to declare that he is the title owner of the vehicle. Further, even this declaration is not required to be filed until 72 hours after the vehicle leaves the U.S. Thus a stolen vehicle shipped out of the country, is on the high seas before any export documentation need be filed at all. The paucity of record keeping is such that it is extremely difficult for our industry to even approximate the number of stolen rental vehicles being exported.

The American Car Rental Association has indicated its strong support of HR 2235 introduced by Congressman Green and referred jointly to the Committee on Energy and Commerce, Foreign Affairs, the Judiciary, Post Office and Civil Service and Ways and Means. As you know, this bill not only addresses the exportation of stolen vehicles but also incorporates legislation requiring the Secretary of Transportation to issue standards relating to the additional identification of vehicle parts and components as well as other anti auto theft measures. ACRA continues to support the more comprehensive HR 2235 legislation. HR 1744 introduced by Congressman Stark certainly takes a step in the right direction concerning one key problem of extreme importance not only to the members of the car rental industry but to all car and truck owners in this country.

Accordingly, you may be assured of our continuing support in connection with this bill. To the extent we are able to do so, we would be happy to provide any additional information concerning the scope of this problem as it affects our industry or to personally appear as may be more helpful. It is our earnest hope that the provisions contained in both HR 2235 and HR 1744 can be enacted into law in an attempt to stem the growing tide of motor vehicle thefts.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., May 9, 1983.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: There are one million car thefts annually, costing the public over $4 billion. Every 28 seconds a motor vehcile is stolen in the U.S. Four out of every ten cars stolen are never located. Many of these stolen cars are exported.

H.R. 1744 is a vital first step in fighting this problem. Under present law, a thief needs only to drive a car to the dock, announce a desire to ship the vehicle and pay the freight charge. It's that simple. There is no verification that the car belongs to the shipper, or that the shipper is authorized to send the vehicle. In the case of vehicles driven across the land borders, it's even simpler: There are no verification requirements for vehicle ownership at our borders. One needs simply to drive the stolen car across the border.

H.R. 1744 would require shippers to record the vehicle identification number (VIN) and to file an export declaration with Customs before exporting. The bill would make it a federal offense to import or export stolen vehicles, aircraft, or their parts, with knowledge that the vehicle or part was stolen. It also prohibits the importation or exportation of vehicles or parts whose identification number the importer or exporter knows to have been removed, obliterated, tampered with or altered. These offenses would be punishable by a fine of $10,000, up to five years in imprisonment, or both.

The bill is a free-standing section of a larger anti-theft bill introduced by our colleague Bill Green, and in previous years by Representative Pickle. These larger bills were referred to five committees, and died because of jurisdictional complexity.

The bill has the support of the National Automobile Theft Bureau, the International Association of Chiefs of Police, the Automotive Dismantlers and Recyclers Association, Inc., the National Association of Independent Insurers, and the American Insurance Association. The Administration testified before the Subcommittee on Trade in support of the bill.

It is past time we acted on the auto theft issue. H.R. 1744 is a way to begin this fight.

Sincerely,

FORTNEY H. (PETE) STARK, Jr.,
Member of Congress.

H.R. 1888

To extend for 5 years the existing suspension of duty on crude feathers and down.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27 and May 10, 1983. The Administration testified that it had no objection to a number of bills which presently are being contsidered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

We believe that the effective date of all bills that are not a continuation of current tariff treatment be no sooner than fifteen days after enactment. Providing an effective date fifteen days after enactment will enable the U.S. Customs Service to notify its field offices and U.S. importers of changes made.

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H.R. 1888--"To extend for five years the existing suspension of duty on crude feathers and down."

We have no objection to enactment of H.R. 1888. Continued suspension of this duty is necessary to allow U.S. manufacturers of products containing feathers and down to compete with imported products. The original duty suspension in 1975 was made to correct an anomaly in the tariff schedules. This tariff anomaly continues. Products which contain feathers and down are being imported at a column 1 (MFN) rate of duty of 4.7 percent. However, imports of feathers and down alone would face a duty of 7.5 percent unless the tariff suspension were continued. The USITC estimates that the annual loss of revenue would be $4 million per year.

We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

BACKGROUND

H.R. 1888, if enacted, would amend the Tariff Schedules of the United States (TSUS) to extend until June 30, 1989, the duty suspension applicable to crude feathers and downs, which is scheduled to expire on June 30, 1984. This would be accomplished by amending TSUS items 903.70 and 903.80 of the Appendix to the TSUS by changing the date shown in the "effective period" column from "on or before 6/30/84" to "on or before 6/30/89".

Section 2 provides for this amendment to be effective on or after the date of enactment.

DESCRIPTION AND USES

TSUS items 903.70 and 903.80 (and the corresponding schedule 1 item—186.15) cover feathers and downs, whether or not on the skin, crude, sorted (including feathers simply strung for convenience in handling or transportation), treated, or both sorted and treated, but not otherwise processed.[1] The term "treated" as used in part 15 of schedule 1 means cleaned, disinfected, or treated for preservation. Ostrich feathers and downs and the feathers and downs prohibited by headnote 2, subpart D, part 15, schedule 1 are not classifiable in items 903.70 and 903.80.

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[1] The bulk of domestic production of feathers and downs are used either as fertilizer or animal feed. However, most imports of feathers and downs are used for decorative purposes and for the filling of bedding and garments.

Feathers and downs are unique to birds and are composed of the protein substance keratin. They are valued for their light weight and insulating qualities.

Feathers are elongated and flat and consist of a rigid stem (quill) with fibers extending on opposing sides. There are two principal types of feathers—fancy and bedding. The fancy type usually is composed of large wing or tail feathers from various wild birds, chickens, ducks, and geese. Most of these are used for decorative purposes such as in millinery and fancy clothing. some fancy feathers, especially neck feathers (hackles) of certain birds, are used to make artificial flies for fishing.

Downs consist of an irregularly spherical mass of fuzzy fibers emanating from a common point on the quill. Downs are softer, more resilient, and have better insulating characteristics than feathers and are in more limited supply, thus making them more valuable. Downs are obtained mainly from waterfowl and are far more expensive than feathers.

Waterfowl feathers and downs (especially those from geese) have better insulating characteristics than do feathers from chickens and other birds and therefore are in greater demand and are more expensive. Although there are no apparent qualitative or functional differences, white feathers and downs generally command a higher price than do those of other colors.

In the United States, the principal use of bedding feathers and downs is in pillows. Chicken feathers are used in low-priced pillows. Waterfowl feathers and downs, as well as mixtures of the two, are used in more expensive pillows and in expensive comforters, sleeping bags, and cold-weather clothing. In recent years there has been increased demand for downs for sporting goods and clothing. Downs alone are customarily used in medium- and high-priced pillows.

TARIFF TREATMENT

The current and negotiated U.S. rates of duty applicable to feathers and downs appear in the following tabulation:

Feathers and downs: U.S. rates of duty, by TSUS item

TSUS item No. 1/	Description	Col. 1 rate of duty 2/		Col. 2 rate of duty 2/
		Pre-MTN	Effective Jan. 1, 1980	
	Feathers and downs:			
186.15A	Other	15%	7.5% 3/, 4/	20% 4/

1/ The designation "A" indicates that the item is currently designated as an eligible article for duty-free treatment under the U.S. Generalized System of Preferences (GSP) and that all beneficiary developing countries are eligible for the GSP.

2/ The symbol "%" indicates "percent ad valorem."

3/ MTN rate modification effective in 1 stage.

4/ Duty on certain feathers and downs temporarily suspended.

The feathers and downs, which are the subject of this legislation, are provided for in item 186.15, with a column 1 rate of duty of 7.5 percent ad valorem[1] and a column 2 rate of duty of 20 percent ad valorem.[2] The column 1 rate was reduced from 15 percent ad valorem on January 1, 1980, as a result of the Tokyo round of the Multilateral Trade Negotiations (MTN). It is not scheduled for further reduction. Imports classifiable under item 186.15 are eligible for duty-free treatment

[1] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

[2] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

under the Generalized System of Preferences if a product of a designated beneficiary developing country.[3]

The column 1 rate of duty on imports of cleaned feathers and downs, other than ostrich (TSUSA items 186.1550 and 186.1555), was temporarily suspended effective April 24, 1975 (Public Law 93-480), as were both the column 1 and column 2 rates of duty for uncleaned feathers and downs, other than ostrich (TSUSA items 186.1560 and 186.1565). The suspension was enacted to correct an anomaly in the TSUS in that certain feather- and down-filled garments were dutiable at 7 percent ad valorem while feathers and downs, the principal input, were dutiable at 15 percent ad valorem. The temporary duty suspension expired after June 30, 1979, but were reinstated on October 17, 1980 (Public Law 96-467), until June 30, 1984.[4] These modifications are reflected in the Appendix to the Tariff Schedules under TSUS items 903.70 and 903.80, as shown below:

Feathers and downs: U.S. rates of duty, by TSUS item

TSUS item No.	Brief Description	Rate of duty		Effective period
		Col. 1	Col. 2	
	Feathers and downs, whether or not on the skin, crude, sorted (including feathers simply strung for convenience in handling or transportation), treated, or both sorted and treated, but not otherwise processed (provided for in item 186.15, part 15D, schedule 1):			
903.70	Meeting both test methods 4 and 10.1 of Federal Standard 148a promulgated by the General Services Administration	Free	No change	On or before 6/30/84
903.80	Other	Free	Free	On or before 6/30/84

STRUCTURE OF THE DOMESTIC INDUSTRY

Data are not available on the five largest firms in the domestic feathers and downs industry.

Almost all domestically produced feathers and downs are obtained as a byproduct of raising chickens, turkeys, ducks and geese for meat. U.S. poultrymen, except those raising ducks and geese, give relatively little consideration to the price of feathers and downs in determining the size of their flocks. At current price levels, the sale of waterfowl feathers and downs appears to provide a significant source of income for domestic duck and goose producers. The bulk of the chicken feathers are collected at broiler-processing plants in the Midwest and East; most of the watefowl feathers and downs are collected at duck-processing plants on Long Island, N.Y. and

[3] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 9, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

[4] The duty suspension was retroactive to the expiration date of the original suspension

at goose-processing plants in the Midwest. A small quantity of feathers and downs is salvaged annually from wild pheasants and ducks.

Several concerns specialize in the collection, cleaning, and sorting of domestic bedding feathers and downs in the United States; many of them also handle imported feathers and downs. Most operate near Chicago or New York City.

The collection and sorting of domestic fancy feathers and the importing of foreign fancy feathers are done largely by importer-dealers, which maintain large stocks of both crude feathers and feathers dyed or further advanced in condition. These importer-dealers sell chiefly to millinery manufacturers, which may also import fancy feathers on their own account.

The principal feather processing firms that would be affected by the legislation are given in the section on U.S. imports; numerous duck and goose farms are represented by the National Goose Council, 2950 Metro Dr., Minneapolis, Minnesota 55420 and by the Long Island Duck Farmers' Coop, P.O. Box 68, Eastport, New York 11941.

DOMESTIC PRODUCTION

U.S. production of feathers and downs affected by this legislation is estimated to have been about 15 million pounds annually in recent years (table 1).[5] The bulk of such production is of chicken feathers. About 3 million to 5 million pounds of waterfowl feathers and downs are estimated to be produced annually; the bulk is from ducks, with U.S. production of goose feathers and downs estimated at less than 0.5 million pounds annually. A small amount of feathers from pheasants is produced. As the prices of different types of feathers and downs vary greatly, no value can be reasonably estimated for domestic production.

U.S. IMPORTS

U.S. imports of feathers and downs fluctuated during 1978–82, ranging from a low of 10 million pounds, valued at $38 million, in 1979 to a high of 17 million pounds, valued at $74 million, in 1981 (table 1). Virtually all U.S. imports consist of waterfowl feathers and downs which are largely imported in the unprocessed and crude state. Most are baled and shipped in the unprocessed state because if feathers and downs are baled after being cleaned they must be reprocessed to regain their bulk, thus adding an extra expense.

The People's Republic of China (China) generally was the leading supplier of feathers and downs to the United States during 1978–82. China is the world's major producer of waterfowl feathers and downs, as waterfowl are important in the diet of people in that country. China accounted for an annual average of about 39 percent of the total quantity, and about 32 percent of the total value, of all feathers and downs imported by the United States during 1978–82. Other major suppliers were France, West Germany, and Yugoslavia (table 2).

Imports of feathers and downs from column 2 sources [6] during 1978–82, according to official statistics of the U.S. Department of Commerce, are shown in the following tabulation:

[In thousands of dollars]

	Quantity (1,000 pounds)	Value
1978	622	$1,635
1979	773	1,259
1980	412	754
1981	782	2,873
1982	321	1,676

Major importers, many of which also process feathers and downs, include Northern Feather Incorporated, 31–39 Backus Street, Newark, New Jersey 07105; Knickerbocker Feather Company, 233–237 Norman Avenue, Brooklyn, New York 11222; Pacific Coast Feather Co., Inc., 1964 4th Avenue South, Seattle, Washington 98134;

[5] The total U.S. output of feathers and downs resulting from the poultry industry is estimated to have been about 1 billion pounds annually in recent years.

[6] Based on TSUS General Headnote 3(f) as of Jan. 1, 1983.

N. Summergrade and Sons, 449 Communipaw Avenue, Jersey City, New Jersey 07304; Pillowtex Corp., 4111 Mint Way, Dallas, Texas 75237; Purofied Down Products Corp., 65 Railroad Avenue, Ridgefield, New Jersey 07657; York Feather and Down Corp., 10 Evergreen Avenue, Brooklyn, New York 11206; and Sanydown Feather Corp., 178 Walworth Street, Brooklyn, New York.

U.S. EXPORTS

U.S. exports of feathers and downs ranged from a low of 3 million pounds, valued at $15 million, in 1978 to a high of 6 million pounds, valued at $47 million, in 1981 (table 1). The Republic of Korea was the principal U.S. export market for feathers and downs during 1978–82, accounting for an average of about one-fifth of the total quantity and about one-half of the total value of U.S. exports during the period. Other major markets include Japan, Taiwan, and Canada (table 3).

No data are available on U.S. exporters of feathers and downs; however, it is believed that importers and processors also export when world market conditions are favorable.

APPARENT U.S. CONSUMPTION

During 1978–82, apparent U.S. consumption of feathers and downs showed no discernable trend and ranged from 21 million pounds in 1979 to 26 million pounds in 1980 (table 1); data are not available on value. As production is estimated to be constant, fluctuations in import and export levels, caused by supply and demand conditions in the world feathers and downs market, account for changes in apparent U.S. consumption.

POTENTIAL LOSS OF REVENUE

Based on the current rates of duty on crude feathers and downs and on the 1982 level of imports, the estimated annual loss of revenue would be $4 million, or $20 million for the duration of the legislation. This figure takes into account the fact that China now receives most-favored-nation treatment under column 1 of the TSUS.

Table 1.--Feathers and downs 1/: U.S. production, exports of domestic merchandise, imports for consumption, and apparent consumption, 1978-82

(Quantity in thousands of pounds; value in thousands of dollars; unit value in dollars per pound)

Year	Production 2/	Exports	Imports	Apparent consumption	Ratio (percent) of imports to consumption
			Quantity		
1978	15,000	3,204	11,708	23,504	50
1979	15,000	3,580	10,044	21,464	47
1980	15,000	5,325	16,616	26,291	63
1981	15,000	6,240	16,883	25,643	66
1982	15,000	4,996	10,863	20,867	52
			Value		
1978	3/	14,762	68,799	3/	-
1979	3/	17,460	37,803	3/	-
1980	3/	34,153	66,048	3/	-
1981	3/	47,457	73,764	3/	-
1982	3/	37,030	51,186	3/	-
			Unit value		
1978	-	4.61	5.88	-	-
1979	-	4.88	3.76	-	-
1980	-	6.41	3.97	-	-
1981	-	7.61	4.37	-	-
1982	-	7.41	4.71	-	-

1/ Excluding ostrich feathers and downs.
2/ Estimated by the staff of the U.S. International Trade Commission.
3/ Not available.

Source: Compiled from official statistics of the U.S. Department of Commerce, except as noted.

Table 2.—Feathers and downs 1/: U.S. imports for consumption, by principal sources, 1978-82

(Quantity in thousands of pounds; value in thousands of dollars; unit value in dollars per pound)

Source	1978	1979	1980	1981	1982
	Quantity				
France	1,428	2,386	2,665	2,555	1,828
China	3,596	2,674	8,379	7,839	3,296
West Germany	1,507	571	1,765	2,214	1,470
Thailand	82	144	145	23	331
Singapore	50	238	279	120	198
Yugoslavia	929	545	79	343	238
Taiwan	1,072	377	690	594	368
Canada	1,019	1,107	903	1,101	1,691
Czechoslovakia	9	38	50	204	151
United Kingdom	248	316	177	470	268
All other	1,767	1,646	1,484	1,417	1,023
Total	11,708	10,044	16,616	16,883	10,863
	Value				
France	10,936	10,613	17,655	16,760	12,597
China	25,092	9,331	24,155	24,377	11,060
West Germany	6,361	1,107	6,368	7,404	4,040
Thailand	963	1,225	1,221	339	3,500
Singapore	441	2,737	3,220	1,849	3,315
Yugoslavia	10,010	4,868	682	6,638	3,300
Taiwan	4,366	1,690	4,706	1,895	2,723
Canada	729	560	650	1,196	2,334
Czechoslovakia	218	319	335	1,247	1,480
United Kingdom	1,001	778	601	3,250	1,366
All other	8,682	4,576	6,455	8,807	5,472
Total	68,799	37,803	66,048	73,764	51,186
	Unit value				
France	7.66	4.51	6.63	6.56	6.89
China	6.98	3.49	2.88	3.11	3.36
West Germany	4.22	1.94	3.61	3.34	2.75
Thailand	11.80	8.48	8.44	14.47	10.58
Singapore	8.85	11.49	11.55	15.36	16.72
Yugoslavia	10.77	8.93	8.65	19.33	13.85
Taiwan	4.07	4.48	6.82	3.19	7.39
Canada	.72	.51	.72	1.09	1.38
Czechoslovakia	23.22	8.39	6.68	6.10	9.79
United Kingdom	4.04	2.46	3.38	6.92	5.10
All other	4.91	2.78	4.35	6.22	5.35
Average	5.88	3.76	3.97	4.37	4.71

1/ Excluding ostrich feathers and downs.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 3.--Feathers and downs 1/: U.S. exports of domestic merchandise, by principal markets, 1978-82

(Quantity in thousands of pounds; value in thousands of dollars; unit value in dollars per pound)

Market	1978	1979	1980	1981	1982
	Quantity				
Republic of Korea	719	770	1,326	1,082	816
Japan	26	118	152	501	418
Taiwan	410	499	875	1,476	1,745
Canada	204	354	489	532	234
West Germany	937	339	708	471	648
Hong Kong	179	203	198	250	367
Denmark	7	10	10	32	61
France	358	273	534	1,364	265
Singapore	2/	0	3	18	30
United Kingdom	60	46	51	186	204
All other	302	968	980	328	210
Total	3,204	3,580	5,325	6,240	4,996
	Value				
Republic of Korea	9,410	8,551	18,767	22,884	15,940
Japan	206	755	1,274	8,064	7,558
Taiwan	696	1,251	2,737	4,856	3,570
Canada	1,397	2,186	3,937	3,640	3,021
West Germany	1,254	939	2,419	1,560	2,303
Hong Kong	487	925	1,127	2,472	1,662
Denmark	13	29	16	42	637
France	622	923	1,523	2,228	635
Singapore	4	-	4	477	582
United Kingdom	97	86	85	447	538
All other	577	1,815	2,265	788	584
Total	14,762	17,460	34,153	47,457	37,030
	Unit value				
Republic of Korea	13.09	11.10	14.16	21.15	19.53
Japan	7.78	6.39	8.40	16.11	18.10
Taiwan	1.70	2.51	3.13	3.29	2.05
Canada	6.84	6.18	8.06	6.84	12.92
West Germany	1.34	2.77	3.42	3.31	3.56
Hong Kong	2.71	4.55	5.70	9.89	4.53
Denmark	1.73	2.95	1.53	1.31	10.44
France	1.74	3.38	2.85	1.63	2.40
Singapore	138.46	-	1.40	27.17	19.34
United Kingdom	1.63	1.88	1.67	2.40	2.64
All other	1.91	1.87	2.31	2.40	2.78
Average	4.61	4.88	6.41	7.61	7.41

1/ Excluding ostrich feathers and downs.
2/ Less than 500 pounds.

Source: Compiled from official statistics of the U.S. Department of Commerce.

H.R. 1890

To extend through June 30, 1987, the suspension of import duties on synthetic rutile.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27, 1983, the Administration testified that it objected to enactment of a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

* * * * * * *

H.R. 1890—"To extend through June 30, 1987, the suspension of import duties on synthetic rutile."

We object to enactment of H.R. 1890. The duty on synthetic rutile was originally suspended at a time when there was no domestic production and the world supply could not equal demand. The Department supported subsequent suspensions because of the absence or inadequacy of domestic production. Such circumstances no longer exist. The amount available domestically for production and sales exceeds the total amount of synthetic rutile imported in 1982, and approximates the amount imported in 1981. Accordingly, we believe that the current world-wide surplus of synthetic rutile, combined with a reliable and sufficient domestic source of synthetic rutile, no longer justifies suspension of duty. Annual revenue loss from passage of this legislation would be approximately $588,000 based on the average total value of imports over the period 1978–1982 projected over the period June 1983 through June 1987.

* * * * * * *

We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 1890, if enacted, would amend subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) to extend the suspension of duties on synthetic rutile, which is classified in TSUS item 603.70.

"Duties or import taxes" on synthetic rutile were suspended almost continuously between October 26, 1974 [1] and June 30, 1982, when the last suspension expired. The bill would again provide duty-free treatment for this article, retroactive from June 30, 1982, and continuing until June 30, 1987.

DESCRIPTION AND USES

Synthetic rutile is derived from ilmenite by chemically extracting iron and other impurities from the ilmenite. Ilmenite, an ore of titanium, contains about 55 percent titanium dioxide. The upgrading process result in another ore of titanium, which contains about 96 percent titanium dioxide. Since natural rutile is much more costly than ilmenite, increasing quantities of ilmenite are being upgraded to produce synthetic rutile.

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[1] See Pub. L. No. 93-470, section 1, at 88 Stat. 1422.

The foremost use for rutile, both natural and synthetic, is to make titanium dioxide pigments; but it is also a necessary raw material for making sponge metal and is the preferred material for coating welding rods. Titanium dioxide pigments are essential to the production of paint, paper, rubber, and plastics. In 1981, production of those pigments amounted to 750,000 short tons.

TARIFF TREATMENT

Synthetic rutile is classified under TSUS item 603.70, a residual provision for other metal-bearing materials of a type commonly used for the extraction of metal or as a basis for the manufacture of chemical compounds. The column 1 rate of duty for this item is 6.3 percent ad valorem; [2] the LDDC rate [3] is 5 percent ad valorem; and the column 2 rate [4] is 30 percent ad valorem. The future staged reductions in column 1 duty rates for this item, which were granted in the Toyko round of Multilateral Trade Negotiations (MTN), are as follows:

1984—5.9 percent ad valorem.
1985—5.6 percent ad valorem.
1986—5.3 percent ad valorem.
1987—5.0 percent ad valorem.

Articles classified under item 603.70 ar eligible for duty-free treatment when imported from beneficiary developing countries under the Generalized System of Preferences (GSP).[5]

STRUCTURE OF THE DOMESTIC INDUSTRY

Kerr-McGee Chemical Corp. suspended operations at its synthetic rutile plant at Mobile, Alabama on March 1, 1978, to investigate process and design modifications. In late 1979, this synthetic rutile plant resumed operations with a design capacity of 110,000 tons per year. By mid-1980 the plant had begun supplying the raw material requirements for Kerr-McGee's pigment plant in Hamilton, Mississippi of 60,000 tons per year; it is estimated that an additional quantity of approximately 10,000 tons per year is produced for sale. Total employment at the synthetic rutile plant is 110 people. No other domestic producer is known.

DOMESTIC PRODUCTION

Official production data are not available from the U.S. Bureau of Mines. After its opening in 1977, the plant of the only domestic producer ran at slightly more than half capacity until March 1, 1978; was closed during much of 1978 and early 1979, and has operated below its capacity of 110,000 tons per year since 1979.

U.S. IMPORTS

Imports of synthetic rutile in 1978–1982 are shown in the table below.

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[2] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

[3] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column numbered 1 applies.

[4] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[5] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

Synthetic rutile: U.S. imports for consumption, by country, 1978-82

Source	1978	1979	1980	1981	1982
	Quantity (short tons)				
Australia	23,546	72,217	60,963	39,708	22,744
Japan	675	1,243	6,590	1,200	1,450
India	11,011	22,134	10,471	440	-
Taiwan	-	22,471	238	-	-
All other	356	-	2	3	-
Total	35,588	118,065	78,264	41,351	24,194
	Value (1,000 dollars)				
Australia	3,771	11,799	9,050	8,854	2,876
Japan	142	278	2,077	492	603
India	1,393	3,190	1,675	1,886	-
Taiwan	-	3,838	69	-	-
All other	69	-	4	2	-
Total	5,375	19,105	12,875	11,234	3,479

Source: Department of Commerce (FT-246).

U.S. EXPORTS

Exports of synthetic rutile are not separately reported in official U.S. statistics. They are, however, considered to be negligible.

APPARENT U.S. CONSUMPTION

Domestic consumption in 1978, when the plant was closed through much of the year, was approximately equal to imports. Domestic consumption since 1978 is approximately equal to U.S. production plus imports.

POTENTIAL ANNUAL LOSS OF REVENUE

The potential customs revenue loss based on 1982 imports of synthetic rutile, valued at $3,479,000 and dutied at 6.3 percent ad valorem, is estimated at approximately $219,177.

TECHNICAL COMMENTS

Since the latest suspension of column 1 duties expired last June, it is suggested that section 1 of the legislation be amended to require that any importer desiring to obtain the benefit thereof for shipments entered before the date of enactment of the provision must request such treatment. This would avoid a burdensome search by the U.S. Customs Service for entries which might qualify under the new item. Thus, the following new section 2 might be used:

"SEC. 2.(a) The amendment made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the fifteenth day following the date of enactment of this Act.

"(b) Upon request therefor filed with the customs officer concerned on or before the ninetieth day after the date of enactment of this Act, any entry or withdrawal from warehouse—

"(1) which was made after June 30, 1982, and before the fifteenth day following the date of enactment of this Act, and

"(2) with respect to which there would have been no duty if the amendment made by the first section of this Act applied to such entry or withdrawal,

shall, notwithstanding the provisions of section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, be liquidated or reliquidated as though such entry or withdrawal had been made on the fifteenth day following the date of enactment of this Act."

STATEMENT OF HON. JACK EDWARDS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALABAMA

Mr. Chairman, I wish to express my very strong opposition to H.R. 1890, a bill to suspend the import duty on synthetic rutile through June 30, 1987. The bill would apply to articles entered or withdrawn from warehouses after June 30, 1982; in essence making its provisions retroactive to the date duties were reimposed.

The import duty on synthetic rutile was originally suspended temporarily in 1974. The temporary suspension was subsequently extended twice and expired last June, allowing the duty to go into effect. There was good reason for suspending the synthetic rutile import duty back in 1974. World production was down and there was virtually no domestic production, circumstances which resulted in a worldwide shortage.

Synthetic rutile is primarily used in the manufacture of titanium dioxide pigment, a white material used in paint, paper, plastics, and fabrics. It is also an important feedstock for the production of titanium metal, an element vital to our national defense. The world shortage of synthetic rutile in 1974 necessitated suspension of the import duty, and that suspension at the time was in the best interest of the United States. The situation has now changed and the import duty is appropriate.

The Kee-McGee Chemical Corporation, after overcoming environmental snags, began synthetic rutile production in earnest in early 1980. Kerr-McGee's plant in Mobile, Alabama, in my Congressional district, presently has the capability of producing over 110,000 short tons of synthetic rutile per year. It is the world's largest producer of the material. Some 65,000 to 70,000 tons are used by Kerr-McGee in the production of titanium dioxide. That leaves up to 45,000 tons for consumption by other U.S. industries. The United States imported 41,000 tons in 1981, an amount which could easily be supplied by our domestic producer. In addition, world production has increased and can supply one million tons per year. The world demand is only 600,000 tons, projected to increase to 650,000 tons by 1985.

When the duty suspension was in effect and Kerr-McGee had large quantities of synthetic rutile stockpiled, it went out looking for a buyer. Kerr-McGee approached Japan as a potential buyer only to be stymied by Japan's 8% import dury on rutile. At the same time, Japan was exporting rutile to the United States and enjoying a duty-free ride on its trade. I just think something is wrong here when a foreign nation gets a break at the expense of one of our domestic industries—a situation which frequently occurs in trade relations with Japan.

The United States has sought to encourage domestic production of defense-related materials, including synthetic rutile, and has indicated opposition to reliance on foreign imports. The Administration has also suggested a national minerals policy which emphasizes the need to produce more strategic minerals in the United States. The question, then, is whether domestic industry can fulfill our defense-related synthetic rutile needs in the years to come. The answer is "yes." Clearly they can. American producers can, in fact, supply sufficient synthetic rutile stocks to meet our defense needs and they can gear up to produce even more on rather short notice. We should bear in mind that, should U.S. production lag, the duty suspension may be reimposed at any point. Another suspension now is premature. Unless we experience shortages, we should afford our domestic industry every chance to be competitive in the field. The world synthetic rutile market does not warrant duty-free status in light of the facts.

Mr. Chairman, I note that the proponents of this bill continue to justify their position by using questionable statistics. Times have changed, and I would just like to capsulize my testimony by outlining today's situation. In 1974 there was virtually no domestic synthetic rutile production and there was a shortage worldwide, so we made it more economically feasible to import the strategic material.

In 1983, there is a worldwide excess of rutile and rutile substitutes. A domestic producer is presently producing more than adequate synthetic rutile supplies to meet demands in this country and that producer should be given every encouragement to continue.

I strongly urge this committee to reject H.R. 1890. To do otherwise would be unjust and would effectively squeeze a domestic synthetic rutile manufacturer out of the U.S. market.

H.R. 1898

To apply duty-free treatment to imported water chestnuts and bamboo shoots.

DEPARTMENT OF AGRICULTURE

This is in response to your request for the views of the Department of Agriculture on H.R. 1898, a bill "To apply duty free treatment to imported water chestnuts and bamboo shoots."

The Department is opposed to the enactment of this legislation.

The products named are currently permitted duty free entry under a temporary duty suspension. Enactment of this bill would make the duty free treatment permanent. The temporary suspension resulted in substantially increased imports in 1982. Of the $34 million in imports in 1982, $21 million came from Taiwan and $10 million from China. Tariff reductions on this substantial value of trade represent important concessions which can be used to obtain better access for U.S. exports to Taiwan and China. Both of these products, in fact, have figured in trade talks with Taiwan in the last few years. The Department, therefore, recommends against a permanent elimination of the duty. The Department would have no objection, however, to an extension of the present duty suspension scheduled to expire on June 30, 1983.

Enactment of this legislation would not represent any increase in cost to the United States Government.

The Office of Management and Budget advises that it has no objection to the presentation of this report from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 1898, if enacted, would repeal the temporary suspension of duty on imports of certain water chestnuts and bamboo shoots provided by Tariff Schedules of the United States (TSUS) items 903.45, 903.50, and 903.55, and replace these temporary duty suspensions with permanent duty-free treatment for such water chestnuts and bamboo shoots provided for in TSUS items 137.84, 138.40, 141.70, and 141.78. The proposal would become effective after June 30, 1983, the same date that the present temporary duty suspensions expire.

DESCRIPTION AND USES

TSUS item 137.84 provides for frozen water chestnuts not reduced in size nor otherwise prepared or preserved. TSUS item 138.40 provides for frozen bamboo shoots or frozen water chestnuts that are cut, sliced, or otherwise reduced in size but not otherwise prepared or preserved. TSUS item 141.70 provides for water chestnuts, whether or not reduced in size, packed in salt, in brine, pickled, or otherwise prepared or preserved. TSUS item 141.78 provides for prepared or preserved bamboo shoots in airtight containers, whether or not reduced in size, but other than bamboo shoots packed in salt, in brine, or pickled, and other than bamboo shoots otherwise prepared or preserved.

Water chestnuts (Eleocharis dulcis) are the edible corms of certain aquatic plants originally cultivated throughout the temperate parts of eastern and southern China. They were first introduced into the United States in 1934. The plants are grass-like in appearance, growing to a height of 5 feet, and are cultivated somewhat like paddy rice. The corms have a chestnut brown skin color, a somewhat flattened spherical shape, and a firm, white flesh that is unusually crisp, like that of an apple. Corms vary considerably in size depending upon growing conditions, with the most acceptable size being 1¼ inches or more in diameter. The bulk of imports of water chestnuts have been marketed in the United States in the canned form (item 141.70).

Water chestnuts are considered an ethnic food, being widely used in oriental cuisine where they are standard ingredients of many Chinese dishes. Water chestnuts are best used in combination with other foods and are sometimes used in a number of American dishes, such as omelets, gravies, meat and vegetable stews, soups, casseroles, and mixed salads.

Bamboo shoots are the tender, young shoots of the hardy Chinese and Japanese bamboos which are dug when the shoot tips are just emerging from the soil surface. The shoots may range in size from a few inches to 10 inches in length, with a diameter of about 1 inch. The sprouts are crisp in texture and are usually without pronounced flavor; however, a number of varieties have tips with a bitter or acrid flavor that is removed by boiling before eating.

The outer covering, or sheath layer, of bamboo shoots must be removed before the tips can be used. The more tender middle and upper shoot parts may be sliced into quarter-inch sections or cut into various shapes. Prepared bamboo shoots are used in the preparation of various vegetable dishes, with or without meat. They also may be served with melted butter; some are pickled in vinegar. Bamboo shoots are considered an ethnic food, or specialty item, and quite often sell at a premium price.

TARIFF TREATMENT

The following table shows the column 1 and column 2 rates of duty.[1] [2] The column 1 rates are temporarily suspended for the period December 28, 1980, through June 30, 1983, pursuant to section 106, Public Law 96-609. Pursuant to Presidential Proclamation 4980, the staged rates for bamboo shoots in airtight containers (item 141.78) entered on or after September 30, 1982, were reduced beyond the original Tokyo round reduction. The final staged rates for items 141.70 and 141.78 are applicable to products of LDDCs.[3] All four items are eligible for duty-free entry under the Generalized System of Preferences (GSP).[4]

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[1] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

[2] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnotes 3(f) of the TSUS.

[3] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column numbered 1 applies.

[4] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

Water chestnuts and bamboo shoots: U.S. rates of duty, by TSUS items

(Cents per pound; percent ad valorem)

TSUS item No. 1/	Description	Pre-MTN col. 1 rate of duty 2/	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1--								Col. 2 rate of duty
			1980	1981	1982	1983	1984	1985	1986	1987	
	Vegetables, fresh, chilled, or frozen (but not reduced in size nor otherwise prepared or preserved):										
A 137.84	Water chestnuts, frozen	25% ad val. 3/	4/	4/	4/	4/	4/	4/	4/	4/	50% ad val. 3/.
	Vegetables, fresh, chilled, or frozen, and cut, sliced, or otherwise reduced in size (but not otherwise prepared or preserved):										
	Other:										
A 138.40	Bamboo shoots, or water chestnuts, frozen.	17.5% ad val. 3/	4/	4/	4/	4/	4/	4/	4/	4/	35% ad val. 3/.
	Vegetables, (whether or not reduced in size), packed in salt, in brine, pickled, or otherwise prepared or preserved (except vegetables in schedule 1, part 8, subpart B of the Tariff Schedules of the United States):										
A 141.70	Water chestnuts	17.5% ad val.	14.5% ad val. 5/	11.5% ad val 5/	8.5% ad val. 5/	7% ad val. 5/	7% ad val.	7% ad val.	7% ad val.	7% ad val.	35% ad val. 5/
	Other:										
	Packed in salt, in brine, or pickled:										
	Other:										
A 141.78	Bamboo shoots in air-tight containers.	17.5% ad val. 6/	14.5% ad val. 6/	11.5% val. 6/	9% ad val. 6/	8.4% ad val.6/7/	8.1% ad val. 7/	7.8% ad val. 7/	7.5% ad val. 7/	7.2% ad val. 7/	35% ad val. 6/

1/ The designation "A" indicates that the item is currently designated as an eligible article for duty-free treatment under the U.S. Generalized System of Preferences (GSP) and that all beneficiary developing countries are eligible for the GSP.
2/ Rate effective prior to Jan. 1, 1980.
3/ Duty temporarily suspended through June 30, 1983. See item 904.45 in pt. 1B, Appendix to the Tariff Schedules.
4/ Rate not reduced in the Multilateral Trade Negotiations.
5/ Duty temporarily suspended through June 30, 1983. See item 904.50 in pt. 1B, Appendix to the Tariff Schedules.
6/ Duty temporarily suspended through June 30, 1983. See item 904.55 in pt. 1B, Appendix to the Tariff Schedules.
7/ Rate reduced pursuant to an agreement with Taiwan (Pres. Proc. 4980).

STRUCTURE OF THE DOMESTIC INDUSTRY, DOMESTIC PRODUCTION, AND U.S. EXPORTS

Growing water chestnuts and bamboo shoots requires significant amounts of hand labor, special technical experience, and the correct climatic conditions. For these reasons, it is believed that domestic commercial production in the United States of water chestnuts and canned bamboo shoots, if any, is limited. It is believed that exports of domestic merchandise of these articles are nil.

U.S. IMPORTS AND APPARENT CONSUMPTION

U.S. imports of canned or otherwise prepared or preserved water chestnuts (item 141.70) more than doubled during 1978–82, as shown in the following tabulation:

[In thousands of dollars]

Year	Quantity (1,000 pounds)	Value
1978	22,024	$6,906
1979	23,695	8,244
1980	25,358	9,928
1981	36,645	15,553
1982	46,155	19,360

During 1978–82, Taiwan, historically the dominant supplier of water chestnuts imported into the United States, supplied a decreasing share of such imports. In 1982, the People's Republic of China (China) supplied 57 percent of the imports and Taiwan supplied 38 percent. The names of the principal U.S. importers of canned water chestnuts are not available, but it is known that the number of importers is substantial.

Data on U.S. imports of bamboo shoots in airtight containers (item 141.78) were not separately reported prior to January 1980. During 1980–82, imports rose from 23.6 million pounds (valued at $8.2 million) in 1980 to 35.3 million pounds ($16.6 million) in 1981, before declining to 26.9 million pounds ($13.7 million) in 1982. Taiwan is the dominant supplier, accounting for 87 percent of the total imports in 1982; China supplied 6 percent of the imports in that year.

Imports of frozen water chestnuts (item 137.84) and of cut, sliced, or reduced in size frozen bamboo shoots and water chestnuts (item 138.40) were first reported separately in January 1, 1982, and January 1, 1981, respectively. Imports of frozen water chestnuts amounted to 2,000 pounds, with a value of $1,000, in 1982; imports under item 138.40 amounted to 741,000 pounds ($284,000) in 1981 and 1.2 million pounds ($553,000) in 1982.

Imports are believed to supply all or virtually all of domestic consumption since domestic commercial production and exports are believed to be very small or nil. The apparent U.S. consumption of canned water chestnuts averaged 30.8 million pounds during 1978–82; consumption of canned bamboo shoots averaged 28.6 million pounds during 1980–82.

POTENTIAL LOSS OF REVENUE

This legislation would provide permanent free rates of duty on four TSUS items for which imports currently enter free-of-duty under temporary provisions which expire June 30, 1983; imports also may enter free-of-duty under the GSP. Thus, enactment of this legislation would result in no loss of revenue. However, if the temporary duty suspensions were to expire and imports again became dutiable, the revenue collected would amount to about $798,000 annually based on non-GSP imports in 1982 dutiable at the 1983 rates of duty.

STATEMENT OF JOHN G. MILLIKEN AND PAUL BOUSQUET, COUNSELS, LA CHOY FOOD PRODUCTS, DIVISION OF BEATRICE FOODS CO.

La Choy Food Products of Archbold, Ohio, a division of Beatrice Foods Company, is the largest importer and user of processed water chestnuts and bamboo shoots in the United States. La Choy incorporates these vegetables in a variety of packaged oriental food products and sells them directly to consumers for use in home cooking.

Water chestnuts and bamboo shoots are currently imported from five countries: Canada, Guatamala, the People's Republic of China (PRC), Taiwan and Thailand. The bulk of these imports are from the PRC and Taiwan. In 1982, an estimated 46.1 million pounds of water chestnuts were imported into the United States at a total value of approximately 19.3 million. Also in 1982, an estimated 20.1 million pounds of bamboo shoots were imported at a total value of approximately $14.2 million.

On December 28, 1980, the President signed Public Law 96-609, a part of which suspended until June 30, 1983 tariff duties on imported water chestnuts and bamboo shoots. These vegetables, depending upon how they are preserved or packaged, are classified under four T.S.U.S. numbers:

1. Frozen water chestnuts and bamboo shoots (T.S.U.S. Items 137.84 and 138.40)
2. Prepared or preserved water chestnuts (T.S.U.S. Item 141.70)
3. Bamboo shoots packed in airtight containers (T.S.U.S. Item 141.78) .

In 1982, the suspension of the duty on these items resulted in an estimated loss of only $2-3 million in revenue to the United States Treasury. Most of this amount has been passed on to the public by La Choy and other manufacturers in the form of lower consumer prices.

Hearings before the Trade Subcommittee prior to the enactment of the duty suspension in 1980 established there was no domestic industry processing water chestnuts or bamboo shoots and that the limited production of fresh (unprocessed) water chestnuts in this country would not be affected by the suspension. Because there continues to be no domestic production, reimposition of the duties on these vegetables would not serve to protect an American industry but would have the necessary effect of raising consumer prices.

We therefore urge this Committee to consider H.R. 1898 which would permanently remove the tariffs on imported water chestnuts and bamboo shoots.

THE NATIONAL COUNCIL FOR UNITED STATES-CHINA TRADE,
Washington, D.C., April 21, 1983.

Hon. SAMUEL M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Longworth Building, Washington, D.C.

DEAR CHAIRMAN GIBBONS: The National Council for US-China Trade supports and indeed urges the passage of HR 1898, Congressman Latta's bill to apply duty-free treatment to imported water chestnuts and bamboo shoots. The Council, a private association of over 400 US companies engaged in business with the People's Republic of China, was established in 1973 in the wake of the Shanghai Communique to promote and facilitate US trade with China. Counted among our members are some of the US' largest foodstuffs importers and processors.

Total suspension of the impending duties on water chestnuts and bamboo shoots will go a long way to assure China of the sincerity of the Administration's pledge to strengthen bilateral trade. The significance of the bill's passage goes beyond symbolism, however. The Chinese have strongly urged the US to increase its purchases of Chinese export commodities so that China will have adequate foreign exchange to buy American equipment. Here is an import area that poses no threat of market disruption nor industry harm, there being virtually no domestic industry to speak of.

This was also the situation in 1981, when the temporary suspension of duties now in effect was first enacted. In that year, US imports of water chestnuts from China increased by 171% while purchases of Chinese bamboo shoots were up 539% from the previous year. Since then, China's seriousness about exporting to the US can be seen in its dogged and successful efforts to comply with FDA's low acid processing standards and regulations that cover water chestnuts and bamboo shoots, among other processed foods. Even if a duty were imposed in July, 1983 at a lower level than that which was in effect in 1981, we believe such a tariff will cause a significant decrease in trade with China in these products, which would only further contribute to tensions presently felt in Sino-American relations.

We applaud the introduction of HR 1898 and encourage the Trade Subcommittee of the House Ways and Means Committee and the full Committee to act favorably on this measure.

We ask that this be submitted for the record in lieu of a public appearance. Thank you very much.

Sincerely,

ROGER W. SULLIVAN,
Executive Vice President.

H.R. 1908

Relating to the marking of containers of imported mushrooms.

DEPARTMENT OF AGRICULTURE

This is in response to your request for the views of the Department of Agriculture on H.R. 1908, a bill "Relating to the marking of containers of imported mushrooms."

The Department of Agriculture opposes enactment of this bill.

The bill requires that individual containers or cans of imported mushrooms be marked to indicate the country in which the mushrooms were grown. The Department opposes marking regulations which go beyond those necessary for normal administrative purposes. The United States is often in the position of asking foreign countries not to impose requirements of this type because of the additional administrative barrier that they represent for U.S. exports. U.S. regulations of the same type should, therefore, also be discouraged. Marking of this type does not aid in the administration of any other U.S. regulations, nor does it provide any particular assurance to U.S. consumers of the quality of the product involved. In addition, from the point of view of U.S. Customs, there is no simple way to assure that labels indicating the country of growth are accurate. In effect the bill will impose an extra inspection requirement, which would cause an administrative delay in Customs clearance.

Enactment of this bill implies some increased cost to the administration of U.S. Customs.

The Office of Management has indicated that it has no objection to the presentation of this report from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 1908, if enacted, would require that the containers of imported preserved mushrooms indicate in English the country in which the mushrooms were grown; absent such marking, the mushrooms would not be in compliance with the marking provisions in section 304 of the Tariff Act of 1930. While the legislation would amend no existing statute, a companion bill amending the Federal Food, Drug, and Cosmetic Act, to require such marking of containers of imported mushrooms reprocessed after entry, had also been introduced as H.R. 1909.

DESCRIPTION AND USES

The term mushroom refers to the edible portion (the fruiting body) of the mushroom fungi. There are two species of mushrooms commonly grown and processed throughout the major mushroom-producing countries: Agaricus bisporuus and, to a much lesser extent, A. bitorquis. The four types of Agaricus commonly marketed in the United States are white, off-white, creme, and brown mushrooms. Such mushrooms are marketed fresh, dried, frozen, or canned.

In the United States, about two-fifths of the mushrooms consumed are fresh, and the remainder are processed. The great bulk of processed mushrooms are canned; these mushrooms are usually packed in a light brine solution. Mushrooms canned in brine are used largely for the same purposes as fresh mushrooms, including use as a garnish with meats and other foods. They are also served separately or in gravies, sauces, relishes, salads, and soups. Mushrooms preserved in mediums other than brine or butter have limited uses, mainly as appetizers and snacks. Some consumers will freely substitute canned mushrooms for fresh mushrooms for specific purposes.

Imports of canned mushrooms account for the bulk of U.S. imports of otherwise prepared or preserved mushrooms. In general, the imported canned mushrooms are of the same genus and species as those canned in the United States and are compa-

rable in flavor and appearance. Most of these imports are packed in a light brine solution, with small quantities preserved in vinegar, wine, or oil.

Imports of canned mushrooms enter this country in all conventional container sizes and styles of pack. However, about two-thirds of these imports are in institutional-size containers (holding over 9 ounces each). Since early 1981, entries for consumption of prepared or preserved mushrooms packed in a heavy salt solution in large containers (primarily 5- and 20-gallon plastic and 55-gallon steel drums) have been increasing. These are fresh mushrooms grown in China that have been cooked and then saturated with a heavy salt solution. Upon arrival in the United States, the mushrooms are washed and desalted before being subjected to conventional canning processes by domestic firms.

TARIFF TREATMENT

The preserved mushrooms which would be covered by this legislation are provided for in items 144.14, 144.16, and 144.20 of the Tariff Schedules of the United States (TSUS). They include air dried and sun dried mushrooms, otherwise dried mushrooms, frozen mushrooms, straw mushrooms other than frozen, and other prepared or preserved mushrooms in all container sizes and styles of pack.

The current rates of duty for all prepared or preserved mushrooms are shown in table 1, including the column 1 rates [1] and applicable staged reductions granted during the Tokyo round of the Multilateral Trade Negotiations (MTN). No LDDC rate of duty [2] is provided for item 144.20; the mushrooms entered under each item have the same column 2 rates of duty.[3] Only the air dried or sun dried mushrooms in item 144.14 are eligible articles for purposes of the Generalized System of Preferences (GSP) and may be entered free of duty from designated beneficiary developing countries.[4]

IMPORT RELIEF

Processed mushrooms have been the subject of several import relief investigations by the Commission since 1976. As a result of an investigation in 1980,[5] the rate of duty on imports entered under item 144.20 was temporarily increased by Presidential action for the period from November 1, 1980, to October 31, 1983, under item 922.55 in the Appendix to the TSUS. The scope of this import relief was modified by a proclamation of February 27, 1982 (47 FR 8753), wherein the President excluded some of the subject mushrooms from relief. Thus, item 922.55 was deleted and item 922.56 inserted to continue the increased duties on the remaining mushrooms.

In a recent Commission investigation conducted under section 406(a)(1) of the Trade Act of 1974 (Investigation No. TA-406-9), the Commission was equally divided in determining whether market disruption exists with respect to imported canned mushrooms from China. The President accepted the determination of two commissioners that such imports are not disrupting the U.S. market. In a subsequent investigation (731-TA-115 (Preliminary)), the Commission unanimously determined that there is a reasonable indication that an industry in the United States is materially

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[1] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MNF) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

[2] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column numbered 1 applies.

[3] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[4] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

[5] Inv. No. TA-201-43, Report of August 18, 1980. Implemented by Pres. Proc. 4801 of Oct. 29, 1980, 45 FR 72617.

injured or threatened with material injury by reason of imported canned mushrooms from China, which are allegedly being sold at less than fair value.

STRUCTURE OF THE DOMESTIC INDUSTRY

In 1982, mushrooms were canned by 22 firms, compared with 24 firms in 1979. Twelve of the canners are in Pennsylvania; most of the other firms are located in the Midwest and the Pacific Northwest. In 1982, 9 of the canners each sold more than 3 million pounds (drained weight) of domestically canned mushrooms, but no single firm accounted for more than one-fourth of U.S. sales of such mushrooms.

For the most part, domestic mushroom-canning operations are similar to the operations of small firms canning other products in the United States. However, unlike many small canners which operate during only a few weeks or months of the year, mushroom canners generally operate throughout most months of the year. The principal canning season extends from October to the following May. Most mushroom canners process few other products.

In recent years, about 15 percent of the domestic output of prepared or preserved mushrooms, except dried, has been frozen. Nineteen firms produced frozen mushrooms in 1982; three of these firms also produced canned mushrooms. The freezers accounting for the bulk of domestic output are located in Pennsylvania, Indiana, and California.

Freeze-drying has been the only method used to dry mushrooms in the United States in recent years. Four firms, located in California, Oregon, Texas, and Pennsylvania, are reported to be the only U.S. producers of freeze-dried mushrooms, and only on a limited basis.

DOMESTIC PRODUCTION

The production of canned mushrooms increased irregularly from 93.4 million pounds (drained weight) in 1978 to 11.6 million pounds in 1980 before declining steadily to 83.6 million pounds in 1982 (table 2). No published data on the value of production are available, since prices vary on a quarterly basis according to container size and style of pack.

Domestic production of frozen mushrooms rose steadily from 11.8 million pounds in 1978 to 23.5 million pounds in 1982. U.S. production of freeze-dried mushrooms average 31,000 pounds during 1978–82.

U.S. IMPORTS

U.S. imports of preserved (other than frozen or straw) mushrooms increased steadily from 88.3 million pounds (drained weight) in 1978 to a high of 111.3 million in 1980 before declining to 84.0 million in 1981 (table 3). The sharp drop in imports in 1981 appears to reflect the additional duty imposed on imports pursuant to Presidential action in October 1980, as well as a generally depressed market in 1981, when domestic producers' sales also decreased. In 1982, imports amounted to 97.6 million pounds, an increase of 16 percent compared with 1981; the value of 1982 imports was $88.6 million.

About 100 firms import canned mushrooms, with 25 accounting for the bulk of such imports in 1982. The large firms are located primarily on the east and west coasts, usually near large urban centers. Most have been importing canned vegetables for many years, and canned mushrooms are only one of many different items which they import.

In 1979, Taiwan supplied 52 percent of the canned mushroom imports from all supplying countries; the Republic of Korea was the second largest source, supplying 29 percent; and Hong Kong was third, with 15 percent. China, an important world exporter of canned mushrooms, supplied less than 1 percent of total annual imports before 1980. In 1980, however, imports from China rose to 14.8 million pounds (drained weight), compared with 263,000 pounds in 1979, as a result of the United States extending MFN treatment to China on February 1, 1980. In 1982, China supplied 38 percent of the market or 36.6 million pounds (drained weight), and Hong Kong (processing mushrooms grown in China) supplied 17 percent, or 16.3 million pounds; Taiwan and Korea supplied 35.3 million pounds (36 percent) and 5.2 million pounds (5 percent), respectively, in 1982.

U.S. imports of frozen mushrooms declined from 2.9 million pounds, valued at $2.0 million in 1978, to 896,000 pounds, valued at $865,000, in 1982, with most of the imports coming from Canada and Taiwan.

Imports of dried mushrooms increased steadily from 1.2 million pounds, valued at $9.3 million, in 1978 to 1.5 million pounds, valued at $12.1 million, in 1981, before

declining to 1.3 million pounds ($8.5 million) in 1982. Since April 1, 1982, imported air dried, or sun dried, mushrooms have been entered separately under TSUS item 144.14, and the otherwise dried mushrooms under TSUS item 144.16. Prior to that date, imports of all dried mushrooms were classified under TSUS item 144.12. During April-December 1982, imports under item 144.14 accounted for 57 percent (by volume) of total dried mushroom imports.

U.S. EXPORTS

In 1982, U.S. exports of canned mushrooms amounted to 257,000 pounds, valued at $233,000, a decline of 62 percent (by quantity) from the 677,000 pounds, valued at $658,000, exported in 1978 (table 2). The four major markets for canned mushrooms in 1982, Canada, West Germany, the Cayman Islands, and the Netherlands Antilles, together accounted for 61 percent of total U.S. canned-mushroom exports in that year.

Exports of frozen and freeze-dried mushrooms are believed to be nil.

APPARENT CONSUMPTION

During 1978–82, the apparent U.S. consumption of canned mushrooms ranged from a low of 178 million pounds (drained weight) in 1979 to a high of 222 million in 1980 (table 2). Between 1980 and 1981, consumption declined 15 percent, with imports declining 25 percent following the imposition of the increased duties on canned mushrooms effective November 1, 1980. Consumption continued to decline through 1982, as domestic production decreased 21 percent and imports increased 16 percent, compared with 1981.

POTENTIAL ANNUAL LOSS (OR GAIN) OF REVENUE

The enactment of this legislation would likely have little or no effect on the annual revenues collected on imports of canned mushrooms, other than potential marking duties under Section 304. Any increased cost of production in changing container labels to conform to this bill would be minimal, resulting in no increase in the dutiable value of the finished product.

TECHNICAL COMMENTS

Several technical difficulties are apparent in regard to the draft bill. First, its scope is somewhat unclear. The intent of this legislation is to require the marking, in English, of containers of imported preserved mushrooms with the name of the country in which the mushrooms were grown. The principal goal of the legislation is to require that a country-of-origin label be affixed to canned mushrooms, the principal type of mushroom imported. Thus, the use of the term "preserved" without reference to any TSUS item number (or numbers) is confusing, since dried mushrooms and other preserved mushrooms could be affected. TSUS item 144.20, "otherwise prepared or preserved" mushrooms, covers canned mushrooms and any other mushrooms prepared or preserved other than by drying. Referring to this item would eliminate confusion concerning the types of mushrooms intended to be covered. This could be achieved by inserting "prepared or" after "imported" in line 3, and inserting "classified in item 144.20 of the Tariff Schedules of the United States (19 U.S.C. 1202)" after "mushrooms" in the same line.

A second and more significant problem is that this legislation addresses only the marking of imported mushrooms to be required at the time of entry; it would restate the requirement already in effect that the immediate containers of previously canned mushrooms be marked. However, it would not eliminate the problem of the final consumer's lack of country-of-origin information as to the growing volume of bulk imports, intended for further processing and canning after entry. If the companion bill, H.R. 1909, is not enacted, the purchaser of a small can of mushrooms might still not be informed of their origin, since the original bulk container might have been exempt from the marking requirement.[6]

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[6] Section 304(a)(3)(G) exempts from marking an article ". . . to be processed in the United States by the importer or for his account otherwise than for the purpose of concealing the origin of such article . . ." where the mark would be destroyed or concealed by the processing. Section 304(b) further exempts from marking rules the usual containers of such articles. The applicability of this combined exemption would depend upon the U.S. Customs Service interpretation of the intent of the importer, but pursuant to Customs regulations it is likely that it would be granted in most cases. The J-list of excepted articles, at 19 CFR sec. 134.33 includes "Natural

Continued

The third and related problem is that this legislation appears to be unnecessary in light of the strict marking requirements of section 304 of the Tariff Act of 1930 already in effect, as to imports of already-canned mushrooms, and possibly contradictory of section 304, as to bulk imports. That is, if the itent of the legislation is to require that bulk containers for imports intended for U.S. canning must be marked, it would seem to be advisable to amend section 304(b) by inserting a proviso to this effect.

Finally, the intent of this legislation might be viewed as a trade barrier and seen by our trading partners as a protectionist response to increasing imports, particularly if H.R. 1909 is also enacted.

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products, such as vegetables, . . . in their natural state or not advanced in any manner further than is necessary for their safe transportation." Only the outermost container of such articles must be marked in any case other than the three 304(b) exceptions, one of which is that described above.

Table 1.--Mushrooms, dried, or otherwise prepared or preserved: U.S. rates of duty, by TSUS items

(Cents per pound: percent ad valorem)

TSUS item No. 1/	Description	Pre-MTN col. 1 rate of duty 2/	Staged col. 1 rates of duty 3/ effective with respect to articles entered on or after Jan. 1--								Col. 2 rate of duty
			1980	1981	1982	1983	1984	1985	1986	1987	
	Mushrooms:										
A 144.14	Air dried or sun dried 3/	3.2¢ + 10%	2.9¢ + 9.3%	2.7¢ + 8.5%	2.4¢+ 7.8%	2.2¢ + 7%	2¢ + 6.3%	1.8¢+ 5.5%	1.5¢+ 4.8%	1.3¢ +4%	10¢ + 45%
144.16	Otherwise dried 3/	3.2¢ + 10%	2.9¢ + 9.3%	2.7¢+ 8.5%	2.4¢+ 7.8%	2.2¢ +7%	2¢ + 6.3%	1.8¢ + 5.5%	1.5¢ + 4.8%	1.3¢ + 4%	10¢ + 45%
144.20	Otherwise prepared or preserved	3.2¢ per lb. on drained weight + 10% 4/	5/	5/	5/	5/	5/	5/	5/	5/	10¢ per lb. on drained weight + 45%

1/ The designation "A" or "A*" indicates that the item is currently designated as an eligible article for duty-free treatment under the U.S. Generalized System of Preferences. "A" indicates that all beneficiary developing countries are eligible for the GSP. "A*" indicates that certain of these countries, specified in general headnote 3(c) of the Tariff Schedules of the United States Annotated, are not eligible.

2/ Rate effective prior to Jan. 1, 1980.

3/ Prior to April 1, 1982, this item was included in TSUS item 144.12 (dried).

4/ Duty temporarily increased; effective period for increased duties terminates at the close of Oct. 31, 1983. See Appendix to Tariff Schedules of the United States.

5/ There was no change in the col. 1 rate resulting from the Multilateral Trade Negotiations.

Table 2.--Mushrooms, canned: U.S. production, exports of domestic merchandise, imports for consumption, and apparent consumption, 1978-82

(Quantity in thousands of pounds; value in thousands of dollars; unit value in dollars per pound)

Year	Production	Exports	Imports	Apparent consumption	Ratio (percent) of imports to consumption
	Quantity				
1978	93,379	677	88,297	180,999	49
1979	86,540	473	92,369	178,436	52
1980	111,639	578	111,270	222,331	50
1981	106,371	498	83,951	189,824	44
1982	83,591	257	97,573	180,907	54
	Value				
1978	1/	658	95,083	2/	2/ -
1979	1/	451	93,727	2/	2/ -
1980	1/	392	117,042	2/	2/ -
1981	1/	372	79,574	2/	2/ -
1982	1/	233	88,635	2/	2/ -
	Unit value				
1978	1/	$0.97	$1.08	2/	2/
1979	1/	.95	1.01	2/	2/
1980	1/	.68	1.05	2/	2/
1981	1/	.75	.95	2/	2/
1982	1/	.91	.91	2/	2/

1/ Not available.
2/ Not meaningful.

Source: Production, compiled from data submitted in response to questionnaires of the U.S. International Trade Commission; exports and imports, compiled from official statistics of the U.S. Department of Commerce.

Table 3.--Mushrooms, canned: U.S. imports for consumption, by principal sources, 1979-82

Source	1979	1980	1981	1982
	Quantity (1,000 pounds, drained weight)			
Taiwan	45,257	53,729	20,539	35,327
China	263	14,823	27,352	36,608
Hong Kong	14,534	19,575	23,479	16,267
Republic of Korea	28,540	19,406	9,394	5,175
Macau	738	1,988	2,292	3,332
France	197	204	155	108
Japan	530	455	367	234
Canada	64	83	18	76
All other	2,246	1,007	355	446
Total	92,369	111,270	83,951	97,573
	Value (1,000 dollars)			
Taiwan	49,919	60,942	24,577	38,888
China	196	13,503	22,942	28,527
Hong Kong	12,065	17,773	19,350	12,115
Republic of Korea	27,188	20,668	9,158	5,017
Macau	591	1,762	2,005	2,492
France	428	510	343	370
Japan	558	547	418	290
Canada	140	117	58	90
All other	2,642	1,220	723	846
Total	93,727	117,042	79,574	88,635
	Unit value (per pound)			
Taiwan	$1.10	$1.13	$1.20	$1.10
China	.75	.91	.84	.78
Hong Kong	.83	.91	.82	.74
Republic of Korea	.95	1.07	.97	.97
Macau	.80	.89	.87	.75
France	2.17	2.50	2.22	3.41
Japan	1.05	1.20	1.14	1.24
Canada	2.19	1.41	3.24	1.18
All other	1.18	1.21	2.04	1.90
Average	1.01	1.05	.95	.91

Source: Compiled from official statistics of the U.S. Department of Commerce.

ASSOCIATION OF FOOD INDUSTRIES, INC.,
New York, N.Y., April 28, 1983.

Congressman SAM GIBBONS,
Committee on Ways and Means, Subcommittee on Trade, Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN GIBBONS: The Association of Food Industries, Inc. on behalf of its members who import processed mushrooms is opposed to H.R. 1908, a bill that would require labels for imported processed mushrooms to show the country in which the mushrooms were grown, in addition to the country in which they were processed.

It is discriminatory to single out mushrooms for this label requirement. There is no similar requirement for any other imported, processed product.

An unenforceable law breeds contempt for law. H.R. 1908 would not be enforceable. We do not believe that U.S. Customs has the analytical capabilities to determine where imported processed mushrooms were grown.

At import Customs examines merchandise for country or origin, but it does not have any history of inspecting food products for country of origin markings once it is within the domestic commerce of the U.S. It does not have the manpower to provide enforcement of country of origin marks within domestic commerce. It seems that nothing would be gained by passage of H.R. 1908, if no manpower exists to enforce it.

To put a label declaration of a foreign country of growth on a can of mushrooms is not going to help the American mushroom industry. That has to be the intent of the proposed legislation, but there is no reason to believe that it will be effective. The only effect that we foresee is one of nuisance value. This does not argue persuasively for the bill, but rather it argues persuasively against it.

The consumer has not shown any great interest in label declarations when she makes her buying decisions. The country of origin is not a significant factor in determining her purchases. Satisfaction with a product and attractive pricing are important. Origin of the product is not. What better proof do we need of this than the success of imported automobiles. When American automobile workers were losing their jobs by the tens of thousands, we did not see Americans rushing to buy American made automobiles. Origin of the product was not a significant factor even when the stakes were great. I do not believe anything will be accomplished for the domestic mushroom industry by reason of H.R. 1908.

It is no secret that imported mushrooms from the People's Republic of China are the principal concern of the domestic mushroom industry. There is currently a dumping investigation against the PRC, and a preliminary determination is due May 16, 1983. This is the second major investigation of mushrooms from the PRC within the last eight months.

If the determination goes against the PRC there will be effective relief for the domestic industry. If the determination does not go against the PRC the U.S. government after careful investigation will have decided for the second time that the PRC has not violated U.S. law. In view of our favorable trade balance with the H.R. 1908 can be considered a new form of harassment.

For the above reasons we believe that H.R. 1908 should not be reported out favorably by the Trade Sub-Committee of the House Ways and Means Committee.

Respectfully submitted.

RICHARD J. SULLIVAN,
Executive Vice President.

NATIONAL GRANGE,
Washington, D.C., May 11, 1983.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, House Ways and Means Committee, Washington, D.C.

DEAR MR. CHAIRMAN: The National Grange has been concerned over the importation of canned mushrooms for the past several years. We have supported the industry's request for import relief before the International Trade Commission on numerous occasions—the latest being in the fall of 1982. While some relief has been gained, imported mushrooms are still causing injury to U.S. producers.

The heart of the mushroom industry in the U.S. is located in the Southeastern section of Pennsylvania. Many of the growers are family enterprises that have been in the mushroom business for several generations. The future of these family operations is dependent upon the U.S. mushroom processing industry retaining a large

percentage of the domestic market. Many growers produce for the fresh market, others rely entirely on the processing industry, but even the fresh market producers need the processing industry to market undersized and lower grade mushrooms.

The growers are not seeking higher tariffs or lower import quotas, but they do believe that all imported canned mushrooms should be labeled, showing the country of origin in English. H.R. 1908, introduced by Rep. Shulze (R-PA), would require such markings on all cans of imported mushrooms that are sold at the retail level. The U.S. growers believe that they produce and process a higher quality mushroom than that which is being imported. The American consumer has the right to know if the product they are purchasing was domestically produced. Without the provisions of H.R. 1908, this right is being denied.

We urgently request that your subcommittee report H.R. 1908 to the full committee.

Thank you.

Sincerely,

EDWARD ANDERSEN,
Master, the National Grange.

H.R. 1910

To correct any misinterpretation in the classification of textile fabrics, articles, and materials, coated, filled, or laminated with rubber or plastics.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27 and May 10, 1983, the Administration testified that it had no objection to a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

We believe that the effective data of all bills that are not a continuation of current tariff treatment should be no sooner than fifteen days after enactment. Providing an effective date fifteen days after enactment will enable the U.S. Customs Service to notify its field offices and U.S. importers of changes made.

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H.R. 1910—"To correct any misinterpretation in the classification of textile fabrics, articles and materials, coated, filled, or laminated with rubber or plastics."

We have no objection to enactment of H.R. 1910. There is a long-established practice of classifying imports of these fabrics in Schedule 3. The U.S. Treasury Department reaffirmed this practice when it differed with a 1977 Customs Court decision involving patent leather imported from Canada. Thus, Treasury issued regulations then that severely limited the application of that Court decision. A 1981 Customs Court decision makes it clear that confusion continues regarding the proper classification of these fabrics and that this confusion may be settled only by Congress clarifying its intent. We believe that H.R. 1910 would provide a proper understanding of the classification of these products.

We believe that this clarification of the classification of imports of these fabrics should not lead to claims against the United States under the GATT. The 1981 Customs Court decision which reclassified these products was made after the conclusion of the Tokyo Round of tariff negotiations. Therefore, no country should have made any concessions to the United States with the understanding that their exports of these products would have come in classified as products of plastics. Since enactment of H.R. 1910 would have the effect of increasing tariffs, there would be no revenue loss to the United States.

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We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

STATEMENT OF GREGORY BILLUPS, CHAIRMAN, AUTO TRIM WHOLESALERS DIVISION EXECUTIVE COMMITTEE, AUTOMOTIVE SERVICE INDUSTRY ASSOCIATION

Mr. Chairman and Members of the Sub-Committee, my name is Gregory Billups. I am Manager of Keyston Brothers, a firm engaged in the auto trim business with headquarters in San Francisco, California. My statement is made in my capacity as Chairman of the Auto Trim Wholesalers Division Executive Committee, a division of Automotive Service Industry Association.

The Automotive Service Industry Association (ASIA) is the automotive world's largest and most comprehensive organization. Its membership encompasses more than 8,500 independent automotive wholesalers, warehouse distributors, heavy duty parts and equipment distributors, automotive service electric distributors, manufacturers' representatives, manufacturers and remanufacturers of automotive replacement parts, tools, equipment, chemicals, paint, refinishing materials, supplies and accessories.

The Auto Trim Wholesalers Division of ASIA is one of nine divisions of the association and is composed of wholesale firms engaged in supplying the highly specialized auto trim segment of the automotive aftermarket. The firms that make up this segment of the industry are predominantly small businesses performing a vital service for the American consumer.

Recent economic conditions have begun to spawn significant changes in the traditional automotive aftermarket. The decisions by American motorists to keep their vehicles longer means that such motorists are increasingly looking to the replacement industry for the parts and services necessitated by such longer operating periods. In order to serve the needs of the consumer, an availability of parts, accessories, supplies and a vast service network throughout the country is required. This intricate and complex network must supply to the consumer the parts, supplies and accessories he needs when he needs it and where he needs it and at a competitive price. ASIA is committed to the preservation of a competitive economy in which free enterprise can flourish.

Free and fair competion, unrestricted by unnecessary and unreasonable governmental impositions is a necessary cornerstone of such an economic system. Governmental impositions which interfere with free competition create problems rather than solve them and should not be adopted.

It is respectfully submitted that the provisions of H.R. 1910 constitute such an interference. Many domestic raw material producers have elected to concentrate their production in areas other than that required to meet the needs of the consumers served by the auto trim industry. Where such limited production is available it is not generally at competitive prices. In order to provide needed finished auto trim goods at competitive prices to U.S. consumers the industry has been forced to look to the world market for the raw materials required to produce such finished goods.

The competitive situation created has been beneficial to the industry. U.S. producers and sellers of the finished product remain competitive with their foreign counterparts thus preserving for the U.S. an important finished goods market. The needs of consumers are more readily met since the void left by decisions of some domestic raw material producers not to produce certain auto trim materials can be filled through access to the world market. Without such access, consumers would in many cases be denied the opportunity to obtain desired finished goods from the domestic market. The existence of an important and vital segment of the industry would be imperiled.

H.R. 1910 would, by arbitrarily declaring PCV Vinyl a textile when in fact it is a plastic, seriously change the competitive structure to the severe deteriment to the auto trim industry and to the consumers it serves. Reclassification of plastic into textile will serve no purpose other than to increase the costs of the members of the auto trim segment of the industry, increase the costs of the industry's customers and increase the costs to the consumer; while at the same time restricting availability of desired finished goods from the domestic auto trim industry.

For the foregoing reasons the Auto Trim Wholesalers Division of the Automotive Service Industry Association urges that this subcommittee reject H.R. 1910. Thank you for giving us this opportunity to express our views on this important matter.

STATEMENT OF ROBERT B. SILVERMAN, MANDEL & GRUNFELD, ON BEHALF OF ELBE PRODUCTS, INC.

Mr. Chairman and Members of the Subcommittee, We hereby register our opposition to H.R. 1910 on behalf of Elbe Products, Inc. Elbe Products is a United States corporation located at 30 Hub Drive, Melville, New York, 11746, with a warehouse facility in St. Louis, Missouri. Elbe products is a supplier of imitation leather and employs approximately 30 people in the United States who are involved with the importation and distribution of this merchandise in the United States. Their imported products are comprised of layers of plastic and textile backing and closely resemble leather in appearance and feel.

Elbe Products has recently been involved in a costly and time-consuming court case regarding the proper classification of these products which was favorably decided for Elbe by the Court of Customs and Patent Appeals (The *United States* v. *Elbe Products,* CCPA, C.A.D. 1267 (1981)). In this case, the court found products in imitation of leather to be properly classified in Schedule 7 of the Tariff Schedules. We believe that H.R. 1910 has been drafted specifically to reverse the *Elbe* decision. We also believe that the bill should not be enacted into law for a number of reasons.

First, if the bill is intended to reverse *Elbe,* then it should be noted that the merchandise in that case consisted of imitation leather. This imitation leather is sold to

domestic manufacturers of footwear, handbags, and luggage and is used as a raw material in those domestic manufacturing operations. A duty increase on this type of merchandise will place an increased strain on these domestic industries and ultimately on U.S. consumers when the increased raw material costs are passed along to U.S. consumers. Thus, a duty increase affecting this merchandise is clearly not appropriate at a time when the Federal Government is placing a great deal of emphasis on controlling inflation and stimulating domestic manufacturing growth.

Further, this is not the time to place an additional burden on the United States footwear industry. With the passing of the American Selling Price basis of appraisement and Orderly Marketing Agreements which have expired, the footwear industry is particularly vulnerable today. Imports of footwear have risen dramatically, causing domestic manufacturers to file a Section 301 complaint with the U.S. Trade Representative. Additionally, we believe that certain domestic footwear manufacturers have requested trade assistance so that they remain viable.

It is also important to note that H.R. 1910 seeks to eliminate tariff provisions that were specifically created in the Tariff Schedules Technical Amendments Act of 1965. (We have attached a copy of those provisions as Exhibit A.) The tariff provisions created through the Act in 1965 intended to have imitation leather products, such as those imported by Elbe, classified under Schedule 7 of the Tariff Schedules and not Schedule 3 of the Tariff Schedules. H.R. 1910 seeks to revoke that legislation through a "minor" or "non-controversial" tariff bill.

It is not uncommon to revoke prior legislation where competing interests change or where Congress realizes that the earlier legislation has been an error. Here, however, we believe that the competing interests are the same. This legislation will injure domestic footwear manufacturers, handbag manufacturers, and luggage manufacturers, who utilize this raw material while it is of very little benefit to anyone other than the limitation leather manufacturers. The industries likely to be hurt by this legislation are the very industries which benefitted when the Tariff Schedules Technical Amendments Act specifically directed Customs to classify imitation leather under Schedule 7 of the Tariff Schedules. As noted above, not only are the competing interests the same, but the vitality of these domestic operations is more questionable today than in 1965 and there are more compelling reasons for protecting the interests of those domestic industries than the manufacturers of imitation leather.

Additionally, Congress should realize that the legislation proposed here is much broader than is required in this situaiton. The *Elbe* case, which started this furor, is limited to the classification of imitation leather type products. *Elbe* was a retrial of this issue after the Customs Service limited the appellate court's decision in the *United States* v. *Canadian Vinyl Industries*, 64 CCPA, C.A.D. 1189 (1977). The import of these cases taken together, which rely heavily on the legislative history set out in the Tariff Schedules Technical Amendments Act, is that plastic-coated textiles which are in imitation of leather are classifiable under Schedule 7 of the Tariff Schedules. Nothing more has been orderd by the Customs Court. In fact, when an importer attempted to apply this theory to an imitation suede leather situation, the importer was unsuccessful (See *C. Itoh & Co. America, Inc.* C.I.T., Slip Op. 81-29 (decided April 7, 1981)).

Against this background, H.R. 1910 is not only controversial, and harmful to U.S. industry, but it is much broader than is required to remedy the problem created by the *Elbe* and *Canadian Vinyl* decisions. Moreover, the problem posed by the *Elbe* and *Canadian Vinyl* decisions is so limited that it should not be the subject of legislation at all. The impact on the domestic man-made fiber or plastics industry can only be slight, whereas the harm to the domestic footwear industry, handbag industry and luggage industry will be great if H.R. 1910 is enacted.

Further, the desire of the proponents of this legislation to classify certain vinyl and plastic products as textile articles simply because they include some textile components would lead to a convoluted and strained interpretation of the Tariff Schedules. This type of tariff classification practice which goes against common understanding and clarity should be avoided in structuring Tariff Schedules.

Finally, Congress should consider the impact of H.R. 1910 on our relationship with our trading partners. It has already been claimed that our government policies subsidize the U.S. oil industry and its derivative products such as man-made fibers and plastics. Protectionist legislation such as H.R. 1910 goes one step further to add fuel to an already inflammatory situation. Such protectionist legislation is also contrary to the Administration's stated policy on free trade and is contrary to the general trend of duty rate reductions pursuant to the latest GATT rounds. Such a change to the schedules will also give rise to well-founded claims for compensation

under Article XXIII of the GATT. Such compensation, if given, could also adversely impact additional domestic parties.

In conclusion, the Tariff Schedules as currently drafted provide for a sensible classification scheme and one recently endorsed by the courts. To make a change such as that requested by H.R. 1910, Congress should be presented with a better rationale than that of the special interests here involved.

EXHIBIT A

Tariff Schedules Technical Amendments Act of 1965, House Report No. 342, 89th Congress, 1st Session:

SECTION 13.* TEXTILE FABRICS, COATED, FILLED, OR LAMINATED WITH RUBBER OR PLASTICS; ARTICLES MADE FROM SUCH FABRICS

Textile fabrics which have been coated or filled or laminated with rubber or plastics are made to many specifications for a wide variety of uses. The fabrics are usually made of cotton or rayon and the most common coating, filling, or laminating substance is rubber or vinyl plastics. The vinyl-covered fabrics (sometimes referred to as "supported" vinyls) are often made in finishes which simulate leather. For some purposes, the rubber or plastics may cover both surfaces of the textile fabric, but for most purposes the rubber or plastics is applied to one surface only. Usually the rubber or plastic is opaque and completely obscures the textile fibers or yarns in the fabrics, but occasionally it is transparent and does not do so. These rubber- or plastic-covered fabrics are used in making rainwear, hunting jackets, footwear, headwear, gloves, luggage, handbags, furniture, and other articles. In the final product, the "textile" surface of the fabric may form the outer surface of the article or the only exposed surface of the fabric, thereby lending to the article to the extent used therein the essential characteristic of a woven or knit textile fabric, or, on the other hand, such surface may form the inner surface of the article or be hidden or buried so that it is only the rubber- or plastic-covered surface which gives character to the finished product.

1. Treatment under the old tariff schedules

In paragraph 907 of the old tariff schedules, provisions were included for several classes of coated or filled fabrics. Of these provisions, only two applied to fabrics covered

* Section 15 in the Act as adopted.

with rubber or plastics: (1) "Waterproof cloth, wholly or in chief value of cotton or other vegetable fiber, * * * in part of India rubber," and (2) "filled or coated cotton cloths not specially provided for." Other fabrics covered with rubber or plastics were classifiable under numerous other provisions on the basis of their component materials of chief value. Likewise, articles made of fabrics covered with rubber or plastics were classifiable under numerous provisions on the basis of their component material of chief value. In the case of fabrics or articles in chief value of synthetic rubber or plastics, the classification was usually controlled by the similitude provision in the paragraph 1559 with its attendant difficulties.

2. Treatment under tariff schedules of the United States

In the new tariff schedules, all woven and knit fabrics covered with rubber or plastics (except foam or sponge sheet) are specifically provided for in items 355.65-355.85 in subpart C, part 4, schedule 3. Schedule 3 headnote 2(a)(iv) includes such fabrics in the definition of "textile materials." Thus, regardless of whether the textile fabric or the rubber or plastics is the component of chief value, the fabric is provided for in items 355.65-355.85, and the fabric as a whole is regarded, for the purposes of the tariff schedules, as a textile material when it is used for making other articles.

The various articles made from the rubber- or plastic-covered fabrics are provided for elsewhere in schedule 3 and in schedule 7. In some of these provisions, the defined status of these fabrics as "textile materials" determines the classification of the products. In framing the new provisions applicable to these fabrics and the articles made therefrom, the Tariff Commission sought to bring together in systematic order the many scattered provisions and to reduce substantially the classification problems and the anomalous results inherent in the chief value and similitude classification concepts. It now appears, how-

ever, that the new provisions involve unintended rate increases in connection with certain of the fabrics and articles made therefrom and also require clarification in certain respects.

3. Proposed changes

The primary clarifications are provided for in subsections (a) and (c)(1) of section 13. Subsection (c)(1) would add a new headnote to subpart C, part 4, schedule 3, which would establish objective weight distinctions for determination of the relative quantities of the textile fibers and of the rubber or plastics material in the fabrics in question. In the absence of such a provision, doubt is created as to whether certain products (sometimes referred to as "supported" rubber or plastics) are intended to be covered in items 355.65-355.85. The amendment would remove all doubt by affirmatively stating that such items cover products "weighing not over 44 ounces per square yard without regard to the relative quantities of the textile fibers and the rubber or plastics material." However, products weighing over 44 ounces per square yard would be required to contain more than 50 percent by weight of textile fibers in order to be classifiable in items 355.65-355.85.

Subsection (a) would amend the definition of "textile materials" in headnote 2(a) of schedule 3. Under subparagraph (iv) of headnote 2(a) the fabrics in question are specifically identified as "textile materials." The proposed amendment takes into account the consideration mentioned above that the textile characteristics of these fabrics may be completely lost in the final product. For example, simulated leather suitcases and gloves made of a "supported" vinyl bear no outward resemblance to a textile product. Thus, the proposed amendment of headnote 2(a) would exclude such fabrics from the defined concept of "textile materials" and provide for their being regarded as wholly of rubber or plastics to the extent that, as used

in the luggage, gloves, or other article made therefrom, nontransparent rubber or plastics forms either the outer surface of the article or the only exposed surface of the fabric.

Subsection (b) of section 13 would transfer headnote 3 for schedule 3, part 4, subpart C, to headnote 4 for schedule 3, with amendments specifically mentioning laminates. It is common practice to apply rubber or plastics to fabrics either as a liquid or by a laminating process involving preexisting sheets of such material. No distinction between such methods of applying rubber or plastics to textile fabrics is intended in making the determination as to the component fibers of chief value in coated or filled or laminated fabrics and articles thereof.

Subsection (c)(2) would amend the superior heading to items 355.65-355.85 by deleting, "except foam or sponge sheet." Thus, textile fabrics covered with foam or sponge rubber or plastics would be included in these items. This amendment would not only clarify the status of such fabrics, it woud also provide uniform classification for all rubber or plastics covered fabrics.

Subsection (c)(3) would repeal item 355.80 relating to rubber or plastics covered fabrics of manmade fibers and substitute therefor a new provision subdivided into items 355.81 and 355.82. For several years prior to the effective date of the new schedules, certain rayon fabrics, covered with and in chief value of rubber or plastics, were held to be dutiable either directly or by similitude, at the rate applicable to manufactures of rubber, not specifically provided for, in paragraph 1537(b). Item 355.81 would continue for these fabrics the rate of 12.5 percent ad valorem which had applied thereto under the old tariff schedules. However, a weight distinction would be substituted for the old chief value concept.

Subsection (d) would substitute new clarifying language for the rainwear provided for in items 376.50-376.58. This amendment is related to the proposed changes affecting articles which are wholly or in part of fabrics covered with nontransparent rubber or plastics. The amendment specifically mentions, in addition to rainwear, other related garments made wholly or almost wholly of such fabrics. Garments regarded as being of nontransparent rubber or plastics now provided for in item 376.50 would, under the proposed amendment, automatically fall without rate change into item 772.30 which provides for "Wearing apparel (including rainwear) not specially provided for, of rubber or plastics."

Subsection (c) would amend the article description for items 771.40-771.42 which cover rubber and noncellulosic plastics in the form of film, strips, and sheets "which are flexible and unsupported." It is proposed to strike out the words "and unsupported." These words are surplusage. Where such film, strips, and sheets are supported, textile fabrics are the usual supporting media and such products are provided for in items 355.65-355.85.

Subsection (f) would transfer the substance of item 772.75 relating to "Inflatable articles not specially provided for, of rubber or plastics" from schedule 7, part 12, subpart C, to schedule 7, part 13, subpart A, without rate change. Some of these articles, such as pneumatic mattresses, are made of textile fabrics covered with rubber or plastics. The textile fabrics, which almost always serve to limit or control the degree of inflation and also to provide strength and resistance to abrasion, often form the outer surface. Rarely, if ever, does the textile fabric cost exceed that of the rubber or plastics which is of necessity the principal material in making an inflatable article. By eliminating all references to component materials, the articles covered by the proposed amendment would not be within the scope of the definition of "textile materials."

INDUSTRIAL FABRICS ASSOCIATION INTERNATIONAL,
St. Paul, Minn., May 11, 1983.

Hon. SAM W. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I thank you and the Trade Subcommittee for permitting me to testify on behalf of the coalition which supports enactment of H.R. 1910. That coalition includes the Industrial Fabrics Association International, the American Textile Manufacturers Institute, the Man-Made Fiber Producers Association, the Chemical Fabrics and Film Association, The Knitted Textile Association, the Association of the Nonwoven Fabrics Industry, the Northern Textile Association and Compo Industries. Following my testimony, the Subcommittee heard additional testimony from a panel of witnesses opposing the bill. I am writing to correct three crucial misimpressions which may have been left by this testimony.

1. *Contrary to the impression the Committee may have received, enactment of H.R. 1910 would have little impact on tariff treatment of the fabrics described by the opposing witnesses.* The opposing witnesses testified that their concern is with fabrics which are more than eighty percent composed of expanded PVC coating, and which are used in products such as automobile seat covers, sports bags and tennis racket covers. In most of these coated fabrics, the textile component will be knit or woven of man-made fibers. Under both pre-*Elbe Products* law and H.R. 1910, the coated fabric used to make these products would be classified as a textile under TSUS 355.81 and would be assessed a duty of 5.4 percent ad valorem. This tariff treatment is virtually indistinguishable from the 5.1 percent ad valorem duty currently assessed under Schedule 7. Indeed, when the final stage duty reductions take effect in 1987, those coated fabrics will be assessed a 4.2 percent ad valorem duty whether classified as a textile or a plastic. Moreover, these fabrics are eligible for GSP treatment under both Schedule 3 and Schedule 7. Thus, the products referenced by the opposing witnesses would be virtually unaffected by the bill.

2. *The real issue is not current imports; it is foreign penetration of additional U.S. markets where our domestic industry is now competing.* The most important impacts of H.R. 1910 could be on tariff treatment of coated fabrics which are thirty percent or more by weight of fabric knitted or woven from man-made fibers. These coated fabrics would be returned from Schedule 7 to classification under TSUS 355.82, where the duty presently is $.08/lb. plus 12.8% *ad valorem*, and where GSP treatment is not accorded. Also substantially affected would be the newer coated nonwoven fabrics, which under H.R. 1910 would be returned from Schedule 7 to classification under TSUS 355.02-355.25.

If H.R. 1910 is not enacted, we expect to see substantial new investment in foreign production of products meeting these descriptions, with sever impact on the domestic coated fabric industry.

3. *Coated or laminated fabric is not the same product as PVC vinyl.* PVC vinyls and coated fabrics are very different products. The bowling bags and golf bags which opposing witnesses showed to the Subcommittee cannot be made from PVC vinyl; because PVC vinyl has no textile component, it tears and punctures easily, holds stitches poorly, and does not hold its shape under stress. Coated fabrics, on the other hand, can be used for bowling ball bags and golf bags, and for many other uses to which PVC vinyl is unsuited.

Irrespective of the percentage of the coated fabric which is vinyl, it is the textile which gives the fabric the basic physical characteristics necessary to the accomplishment of its intended purpose. Characteristics such as dimensional stability, tear strength, tensile strength and stitch strength are provided by the textile fabric, not by a plastic coating. A PVC vinyl without a textile component would be unsuitable for the end products which currently incorporate coated fabrics. If PVC vinyl could be used in those applications, it would be, for its cost is roughly forty percent less than that of a coated fabric. The plain fact is that PVC vinyl is not used in these applications because a coated fabric is necessary.

H.R. 1910 does not affect classification of PVC vinyl; PVC vinyl will continue to be classified in Schedule 7. H.R. 1919 affects only the tariff classification of coated fabrics, to which critically important qualities have been contributed by their fabric component.

Mr. Chairman, the U.S. coated fabrics industry has approximately $1.1 billion in annual sales and directly employs approximately 50,000 people. U.S. coated fabrics are used as wall coverings and in the upholstery, luggage, footwear, apparel, construction, and marine and boating industry. U.S. coated fabrics are used to make products ranging from protective and safety apparel to air and water filtration sys-

tems and drainage and erosion control systems. Our domestic industry was built in reliance on the government's promise of Schedule 3 tariff treatments.

If H.R. 1910 is not adopted and the new policy required by the *Elbe Products* case is allowed to stand, that industry will in fact be hurt by reduced tariffs and by duty-free imports receiving GSP treatment.

Moreover, adoption of H.R. 1910 would not have a substantial adverse impact on existing imports of coated fabrics such as those described by the opposing witnesses.

Until the recent court cases, coated fabrics have always been classified in Schedule 3 where they are defined in headnotes and specifically described. The *Elbe Products* case mandates a different treatment than the Treasury Department has believed appropriate. There is a strong case for enactment of H.R. 1910—and that is why the Administration has testified that it has no objection to this measure.

I appreciate your consideration of this letter and respectfully request that it be placed in the record of the Subcommittee's proceedings on H.R. 1910.

Very truly yours,

FRED E. MAGENHEIMER,
Chairman, Coaters and
Laminators Division.

STATEMENT OF MILAN STONE, PRESIDENT, UNITED RUBBER, CORK, LINOLEUM & PLASTIC WORKERS OF AMERICA

Mr. Chairman and Members of the Subcommittee, the United Rubber, Cork, Linoleum and Plastic Workers of America (URW) is an international labor union which represents approximately 120,000 workers in the United States and Canada in the rubber, plastics and allied industries. As the collective bargaining representative for a number of the workers in the rubber and plastic coated fabrics industry, we are interested in seeing that the products made by our members are accorded fair and equitable tariff treatment.

We are in support of H.R. 1910 as introduced by Representatives Shannon (D-Mass.), Martin (R-N.C.) Jenkins (D-Ga.) and Campbell (R-S.C.) and its companion bill in the Senate—S. 702—as introduced by Senators Danforth (R-Mo.), Moynihan (D-N.Y.) and Mitchell (D-Maine).

The products involved were initially and, we feel, properly classified in Tariff Schedule 3 when the current Tariff Schedules were enacted in 1962. We feel the basic component of coated fabrics is textiles and we feel tariff treatment should be in harmony with that fact. In 1981, however, the courts ruled that such products should be classified instead in Tariff Schedule 7, a decision which we believe has the potential to cause considerable damage to this segment of the textile industry. By switching tariff schedule classifications, the Customs Court has made it easier for imports to compete in the U.S. market.

Prior to the court's reclassification, imported coated fabrics were found in the tariff schedules listed under textile fibers and textile products and carried a tariff duty rate of up to 13 percent plus 10 cents a pound. Now, these products are listed under miscellaneous products in Schedule 7 and are subject to tariffs ranging between 3.7 percent and 5.3 percent.

Not only are the normal duties substantially lower under the court decision, imports of coated fabrics are no longer subject to import controls under the Multifiber Arrangement and in addition, these items are now eligible for GSP, the Generalized System of Preferences, which means a zero tariff for those coated fabrics imported from developing countries. If the court's action is allowed to stand, it must be expected that increasing quantities of coated fabrics imports will be coming from the low-wage developing countries to the detriment of the domestic industry, which now makes $1.1 billion of coated fabrics a year, its workers and the federal government in the form of lost tariff revenues.

As you know, GSP was established to assist the economic development of so-called developing countries by expanding their export opportunities and helping to diversify their economies. GSP was not meant to adversely affect domestic production or employment in import-competing industries. However, we are concerned that this could happen in this situation if the court's ruling is not negated. In 1981, 49 percent of U.S. imports of coated fabrics came from the GSP-eligible countries of Colombia, Korea and Taiwan. Taiwan and Korea have been designated as economically advanced developing countries and most likely do not need GSP assistance to compete in our market. If the law is not changed, it is our belief and our concern that we will see increased imports from these sources in the future and increased layoffs from our factories.

Coated fabrics are an important part of the domestic textile industry, an industry that has already known more than its share of import troubles. The intent of the Congress has been overturned by the Customs Court decision to transfer coated fabrics to Tariff Schedule 7. We urge the Congress to pass H.R. 1910 and S. 702 and restore the original congressional intent in this matter.

SUMMARY

The position of the URW is that coated fabrics were improperly classified under Tariff Schedule 7 by the Customs Court. These items are specially treated textiles and belong under Schedule 3 and were placed there by the Congress in 1962. This reclassification, by (1) lowering duty rates, (2) taking coated fabrics out of the Multifiber Arrangement, and (3) making coated fabrics eligible for GSP treatment, will make imports more competitive to the disadvantage of the domestic industry and its workers.

The URW recommends passage of H.R. 1910 in the interests of (1) restoring original congressional intent, (2) preventing unnecessary losses of customs duties, (3) preventing damage to a large segment of American industry, and (4) preserving the jobs of American workers. The Customs Court decision benefits economically advanced developing countries and gives them an unfair and unwarranted advantage in competing in our domestic market.

STATEMENT OF THE WALLCOVERING MANUFACTURERS ASSOCIATION

Wallcovering Manufacturers Association ("WMA") strongly urges the prompt passage of H.R. 1910 to preserve the status quo in the United States tariff classification of wallcovering. In support of its position, WMA adopts the joint statement submitted on March 10, 1983 by the Industrial Fabrics Association International and six other trade associations. In addition, WMA would like to refer the Subcommittee specifically to the situation of the domestic wallcovering industry.

WMA is a national trade group comprised of all major manufacturers of wallcovering in the United States. WMA members have manufacturing facilities at 34 locations in 11 states and employ more than 3,600 workers nationwide. Much of our industry is engaged in the manufacture of vinyl-coated, fabric-backed wallcovering, a product which is quite popular with the American consumer and which is gaining increased acceptance abroad. The industry purchases large quantities of raw materials, such as paper and cloth substrates, vinyl coatings and laminates, and chemicals and inks, from hundreds of suppliers throughout the country. Our members include both large companies and small entrepreneurial enterprises which are owned and operated by the families which founded them decades ago. A list of our current membership is attached.

Based on a series of court decisions,[1] a foreign manufacturer is seeking to change the United States Tariff Classification of vinyl-coated, fabric-backed wallcovering from TSUS 355.65, with a 7.4 percent duty, to TSUS 772.70, with a 5.1 percent duty. The tariff reclassification would also make such wallcovering eligible for duty-free treatment under the Generalized System of Preferences.

Such a change would be contrary to the longstanding practice of the Customs Service to treat vinyl-coated, fabric-backed wallcovering as a Schedule 3 textile. It would also be contrary to congressional intent as it has been perceived since at least 1962 when the present tariff schedules were adopted.

Unless the trend in judicial decisions is halted, the domestic wallcovering industry will be severely affected. Our members are already feeling the effects of the sharp downturn in home construction, a major market for their products. On the other hand, many of our foreign competitors already enjoy labor cost advantages, substantial government assistance, favorable exchange rates and protectionist tariffs.[2] The domestic industry should not be made to bear an unfair tariff handicap.

American wallcovering manufacturers would be assured of continued fair treatment by passage of H.R. 1910. The narrowly drawn bill would do no more than

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[1] The pending complaint in *Canadian General-Tower Ltd.* v. *United States* (No. 81-7-00987 Ct. Int'l Trade) is premised on decisions in *United States* v. *Elbe Products Corp.*, 655 F.2d 1107 (C.C.P.A. 1981), aff'g 497 F. Supp. 707 (Cust. Ct. 1980); *United States* v. *Canadian Vinyl Industries, Inc.*, 555 F.2d 806 (1977), aff'g 408 F. Supp. 1377 (Cust. Ct. 1976).

[2] In this regard, it is worth noting that Canada charges United States manufacturers an incredible 22.5 percent tariff on this product, effectively eliminating our members from a potentially large Canadian wallcovering market.

maintain the status quo by reaffirming the traditional reading of congressional intent that coated fabrics are considered textiles for tariff purposes.

We would appreciate your including this statement in the Committee Report on this tariff legislation. Please contact us if we can provide any further information.

WALLCOVERING MANUFACTURERS ASSOCIATION, DOMESTIC MANUFACTURING MEMBERS

Kassel Corp., 16 Arrow Road, Ramsey, N.J.
Eisenhart Wallcovering Co., Pine Street, Hanover, Pa.
Imperial Wallcoverings, 23645 Mercantile Road, Cleveland, Ohio
Lennon Wallpaper Co., P.O. Box 8, Joliet, Ill.
Decorative Products Division, National Gypsum Co., 10 New England Executive Park, Burlington, Mass.
James Seemen Studios, Inc., 50 Rose Place, Garden City Park, N.Y.
Storeys-Wallcoverings Inc., 500 Pleasant Valley Road, Harrisonburg, Va.
Gagne Wallcovering, Inc., 2076 Sunnydale Boulevard, Clearwater, Fla.
Nairn American Ltd., 409 Route 70 East, Cherry Hill, N.J.
Wallcovering Division, Pantasote, Inc., 85 Lincoln Highway, South Kearny, N.J.
Columbus Coated Fabrics, Division of Borden Chemical, 1280 North Grant Avenue, Columbus, Ohio
GTR Wallcovering Co., General Tire & Rubber Co., 401 Hackensack Avenue, Hackensack, N.J.
Old Deerfield, Inc., 134 Sand Park Road, Cedar Grove, N.J.
York Wallcoverings, Inc., P.O. Box 866, York, Pa.
Inaltera Wallcoverings, Inc., 221 King Manor Drive, King of Prussia, Pa.
Hawthorne Prints, Inc., 121-129 Wagaraw Road, Hawthorne, N.J.
Comebeau Industries, Inc., Two Bala Plaza, Bala Cynwyd, Pa.
ICI Americas, Inc., New Murphy Road & Concord Pike, Wilmington, Del.
Laminating Services, Inc., P.O. Box 32159, Lousiville, Ky.
F. Schumacher & Co., 919 Third Avenue, New York, N.Y.
Pickhardt & Siebert USA, Inc., 128 Washington Street, Marblehead, Mass.
Ozite, 1755 Butterfield Road, Libertyville, Ill.
Walltrends/Griffine-Marechal International, 17 Mileed Way, Avenel, NJ.
L. E. Carpenter & Co., 170 North Main Street, Wharton, N.J.

DOMESTIC ASSOCIATE MEMBERS

Eastern Bindery, Inc., 110-124 Straight Street, Paterson, N.J.
Custom Chemicals Co., 30 Paul Kohner Place, Elmwood Park, N.J.
C. H. Dexter, Two Elm Street, Windsor Locks, Conn.
Daret, Inc., 287 Margaret King Avenue, Ringwood, N.J.
Superior Printing Co., 3869 Niles Road SE., Warren, Ohio
Jay Madden Corp., Nine Rockefeller Plaza, New York, N.Y.
CBC Coating, Inc., 800 S. Oneida Street, Appleton, Wis.
Wallco International, Inc., 6700 NW. 77th Court, Miami, Fla.
Magnat Corp., O'Neill Street, Easthampton, Mass.
The Warner Co., 108 South DesPlaines Street, Chicago, Ill.
Superior Sample Co., Box 55, Ligonier, Ind.
Shelby Craftco, 400 Earl Road, Shorewood, Ill.
Keystone Color Works, Inc., 151 West Gay Avenue, York, Pa.
Economy Color Card Co., Inc., 711 East First Avenue, Roselle, N.J.
M. S. Chambers & Son, Inc., 132 West Main Street, Baltic, Conn.
Ross Chemical Co.—A. Henkel Co., 8485 Melville Street, Detroit, Mich.
Polytex Color and Chemical Corp., 5-31 47th avenue, Long Island City, N.Y.
Formed Fabrics Division, International Paper Co., 77 West 45th Street, New York, N.Y.
Richard E. Thibaut, Inc., 315 Fifth Avenue, New York, N.Y.
Fabulous Handprints, 179 Main Street, West Orange, N.J.
The Intaglio Group, Inc., 4104 Tytus Avenue, Middletown, Ohio
Reliable Sample Card Co., 30 Warsoff Place, Brooklyn, N.Y.
Roman Adhesives, Inc., 5 Lawrence Street, Bloomfield, N.Y.
Mueller Art Cover & Binding Co., P.O. Box 36180, 20000 Westwood Drive, Cleveland, Ohio.
Hollingsworth & Vose Co., 112 Washington Street, East Walpole, Mass.
Fitchburg Paper, P.O. Box 609, Fitchburg, Mass.
The Alderman Co., P.O. Box 2046, High Point, N.C.
Colwell/General Inc., 701 North 15th Street, St. Louis, Mo.
Stora Kopparberg Corp., 100 Prospect Street, Stamford, Conn.

Luminite Products Corp., 115 Rochester Street, Salamanca, N.Y.
Frankford Wallcovering Inc., 7120 North Broad Street, Philadelphia, Pa.
Chicopee, 317 George Street, New Brunswick, N.J.
Air Products & Chemcials, P.O. Box 538, Allentown, Pa.
The Lezius-Hiles Co., 1929 East 61st Street, Cleveland, Ohio.
See also letter from Man-Made Fiber Producers Association, Inc., included in H.R. 1624.

H.R. 1933

Relating to the duty-free entry of certain scientific equipment imported for the use of the Ellis Fischel State Cancer Hospital, Columbia, Mo.

DEPARTMENT OF THE TREASURY

This is in reply to your request for the views of the Department of the Treasury concerning H.R. 1933, a bill "Relating to the duty-free entry of certain scientific equipment imported for the use of the Ellis Fischel State Cancer Hospital, Columbia, Missouri."

The Department of the Treasury does not oppose the enactment of H.R. 1933.

The bill requires that the Secretary of the Treasury reliquidate, as duty-free, certain entries made at Chicago, Illinois, and covering scientific equipment for the use of the Ellis Fischel State Cancer Hospital. It appears from the facts in this matter that the articles were entered as dutiable because both the hospital and the shipping company failed to coordinate the timing of the shipment and the port of entry which was to receive the duty-free approval.

Thereafter, neither the hospital nor the importer filed a duty-free claim with respect to these articles within the required 90 days following liquidation of the entries. The importer did, however, make two filings for relief under section 520(c)(1) of the Tariff Act of 1930, which in relevant part provides for the reliquidation of an entry to correct a clerical error, mistake of fact, or other inadvertence. The first request was not timely filed; the second request was denied because it failed to clearly establish a relationship between the previous duty-free approval granted to the hospital and the articles in question. The failure of the hospital to take appropriate action to insure duty-free entry was deemed negligent and not the result of a clerical error, mistake of fact, or other inadvertence within the meaning of section 520(c)(1).

Generally, the Department of the Treasury does not favor private relief bills. It is to be noted, however, that in this instance the hospital is a Missouri State Hospital and, in the absence of a private relief bill, it is likely that the State of Missouri will be required to reimburse the importer who entered the articles for the account of the Ellis Fischel State Cancer Hospital. In view of the circumstances surrounding these entries, the parties concerned, and that the amount involved is in excess of $20,000, the Department of the Treasury does not oppose the enactment of H.R. 1933.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27 and May 10, 1983, the Administration testified that it had no objection to a number of bills which presently are being considered by your committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative cost of this Department.

We believe that the effective date of all bills that are not a continuation of current tariff treatment should be no sooner than fifteen days after enactment. Providing an effective date fifteen days after enactment will enable the U.S. Customs Service to notify its field offices and U.S. importers of changes made.

* * * * * * *

H.R. 1933—"To provide duty-free entry for certain scientific equipment for use in the Ellis Fischel State Cancer Hospital in Columbia, Mo."

We have no objection to enactment of H.R. 1933. Importers failed to file the proper documents in time to claim duty-free treatment under the Florence Agree-

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ment. Had those documents been filed in time, this equipment would have been granted such duty-free treatment.

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We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., April 25, 1983.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Way and Means, Longworth House Office Building.

DEAR MR. CHAIRMAN: I was pleased to see that your subcommittee is holding hearings in the next two weeks on a series of tariff and trade bills, including HR 1933, a bill I am sponsoring to provide relief to the Ellis Fischel State Cancer Hospital in Columbia, Mo.

I strongly support this bill and hope that it wins approval this year. You may recall that it was delayed in the last Congress because of a referral problem. The bill is simply an effort to rectify an error that was made some years ago when the equipment was originally imported. All sides agree that duty should not have been paid at that time, but it was. And there is general agreement that this bill is the only way of providing needed relief. That is why I am hopeful that the subcommittee will approve it.

If you have any questions about the details of this issue, please don't hesitate to contact me.

Very truly yours,

RICHARD A. GEPHARDT.

H.R. 1938

To amend the Tariff Schedules of the United States to clarify for duty purposes the distinction between dress gloves and work gloves.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on H.R. 1938, a bill "To amend the Tariff Schedules of the United States to clarify for duty purposes the distinction between dress gloves and work gloves."

H.R. 1938 would clarify the meaning of the term "with fourchettes" as applied to gloves imported into the United States. Traditionally, dress gloves have contained fourchettes, while work gloves do not. Gloves without fourchettes are subject to a higher tariff duty rate.

Under current Custom's interpretation, gloves may qualify as "gloves with fourchettes" if they have a fourchette along one finger of each glove. Also, the fourchette does not need to extend from finger-tip to finger-tip. These Customs' interpretations have led to tariff avoidance practices.

Currently, gloves of seamed rubber or plastic with textile fourchettes enter the United States under Tariff Schedules of the United States (TSUS) item 705.85 with a column 1 (MFN) rate of duty of 14.5 percent ad valorem. Gloves of seamed rubber or plastic without textile fourchettes enter under TSUS item 705.86 with a current column 1 (MFN) rate of 24.5 percent ad valorem.

H.R. 1938 will clarify that, in order to qualify as "gloves with fourchettes," the fourchettes would have to extend from finger-tip to finger-tip between each of four fingers. The bill also removes "sidewalls" as a criterion for classification.

The Department believes that some clarification in the distinction between dress and work gloves is necessary to prevent tariff avoidance practices. However, as presently written, the bill would have the unintended effect of increasing duties on certain gloves not produced in the United States. We therefore propose that Section 1(a) of H.R. 1938 remain unchanged but that Section 1(b) of the bill be amended by striking out lines 1–2, on page 2 and inserting in lieu thereof the following:

"(b) by striking 'textile fabric' and 'or sidewalls' in item 705.85."

This change would clarify the tariff treatment for work gloves without having an adverse effect on domestic producers of dress gloves.

We also considered an industry proposal that H.R. 1938 be limited in its application to only TSUS item 705.85. While we did not object to the more narrow interpretation, we believe that our proposal would result in a more rational tariff nomenclature.

We do not have available to us information that would indicate the revenue effect of enactment of H.R. 1938. We believe that some gloves now using the current nomenclature to circumvent the intent of the Tariff Schedules would face higher duties, but other gloves currently entering at the higher duties would be subject to the lower tariff as a result of the changes suggested by the Administration. Enactment of H.R. 1938 would have no impact on the revenues to or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 1938, [1] if enacted, would add a definition of "fourchettes" to, and make certain other changes in, part 1C of schedule 7 of the Tariff Schedules of the United

[1] H.R. 1938 has been introduced in the 98th Congress as H.R. 1938 and S. 907.

States (TSUS) in an attempt to define clearly which gloves are "dress" or "work" gloves. Its principal intent is to compel a reclassification of certain gloves now entering under TSUS item 705.85 (namely, seamed rubber or plastic gloves with textile fabric fourchettes [2] and all seamed rubber or plastic gloves with sidewalls [3]), which has a current column 1 rate of duty [4] of 14.5 percent ad valorem, into TSUS item 705.86 (other seamed rubber or plastic gloves) which has a current column 1 rate of duty of 24.5 percent ad valorem. Currently, a glove constructed with a textile fourchette extending along all or part of the length of one finger is interpreted by the U.S. Customs Service to be a glove "with fourchettes", and that fourchette need into extend from finger tip to finger tip. As a result, gloves which have a textile fourchette extending only part of the little finger—and which would for the most part be described by the industry as "work gloves"—are being classified in item 705.85, along with vinyl dress gloves having one textile fourchette and the remaining fourchettes of vinyl. The legislation would change this practice by requiring that the glove have textile fourchettes extending from finger tip to finger tip between each of the four fingers in order for glove to be classified as having fourchettes. In addition, the legislation would delete "or sidewalls" from the article description in item 705.85. Therefore, rubber and plastic gloves not meeting the new criteria as to fourchettes and/or constructed with sidewalls would be reclassified into TSUS item 705.86, a residual or "basket" category.[5] Thus, both "dress" and "work" gloves would be reclassified and a higher duty imposed; no clear distinction between the two groups would be achieved.

The legislation also attempts to modify statistical subdivisions of TSUS items 704.40, 704.45 and 705.35, the other glove provisions which include the presence of fourchettes and sidewalls as reporting criteria, by deleting "or sidewalls" from three annotations. However, it should be noted that these statistical annotations are not part of the statutory provisions of the TSUS but are instead administratively added by the Committee for Statistical Annotation of the Tariff Schedules.[6] Thus, even if the scope of an annotation to an item is modified legislatively, such a change would not affect an article's classification in that item but could only shift the article for reporting purposes to another annotation of that item. Such changes in reporting requirements would therefore have no effect on rates of duty and are therefore not discussed in great detail in this report.

DESCRIPTION AND USES

The legislation's principal impact would be upon gloves now classified in item 705.85 and reported under annotation 705.8520. These gloves are primarily of 2 types: plastic or vinyl dress gloves, and coated or partially coated work gloves. Approximately 60 percent of the total import value of gloves reported under this annotation is attributable to dress gloves which are cut and sewn of vinyl material. Many of these gloves are currently constructed with two vinyl fourchettes and one textile fourchette, while others may have more than one textile fourchette. The remainder of the gloves reported under this annotation are coated and partially coated work gloves, which are cut and sewn from fabric which has been coated or impregnated with plastic. These work gloves are currently constructed with one textile fourchette between the ring finger and the little finger, and some are constructed with textile sidewalls. Inclusion of this fourchette or sidewall provides some additional depth to the glove and therefore a slightly better fit; it also results in the

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[2] A fourchette is a strip of material that is sewn in between the finger of the palm-side and back-side of a glove.

[3] A sidewall is a sewn-in strip on the side from the end of the little finger to the wrist.

[4] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

[5] Seamed gloves of rubber or plastics "with the outer surface thereof (except as to applied cuffs, if any) wholly of plastics, and the seams of which are heat sealed and not sewn or stitched" would still be classified in item 705.85. Those seamed rubber or plastic gloves which this legislation would reclassify under item 705.86 are currently reported under statistical annotation 705.8520 of the TSUSA.

[6] the Committee, also known as the "484(e) Committee" from its enabling provision in the Tariff Act of 1930, is composed of representatives of the Secretaries of the Treasury and Commerce and of the USITC.

gloves being classified in TSUS item 705.85 rather than in TSUS item 705.86, which has a higher duty rate.

Over two-thirds of the gloves entering under TSUS item 705.86 are coated and partially coated work gloves. These gloves are virtually the same as those entering under item 705.8520, except they do not have fourchettes or sidewalls. The remainder of the gloves classified in item 705.86 are dipped supported work gloves, which are made by dipping a sewn textile lining, which is attached to a hand form, into a liquid rubber or plastic compound; and vinyl dress gloves, constructed with vinyl fourchettes, not textile fourchettes.

The imported vinyl dress gloves are worn for appearance and warmth in the winter. There is believed to be no U.S. production of these products. The work gloves are used for hand and product protection primarily by the industrial sector, including the automobile, steel, construction, and chemical industries. A small portion is sold to retailers for use in the home. Domestic production of these gloves ranges from less expensive, general purpose gloves to more expensive, specialty work gloves. Industry sources indicated that the general purpose gloves constitute the bulk of their domestic production. Most of the imported gloves are also general purpose work gloves.

TARIFF TREATMENT

The rubber and plastic gloves which the legislation intends to cover are classified in items in subpart C, part 1, of schedule 7 of the TSUS. As shown in the table on the following page, the column 1 rates of duty on these TSUS items will become identical in 1987 as a result of staged reductions granted in the Tokyo Round of the Multilateral Trade Negotiations (MTN). Therefore, the comparative duty difference that would result from enactment of the bill will diminish annually and disappear. These duty reductions will be implemented in 1-year intervals (staging) over a period of 6 years, with the initial reductions effective July 1, 1980.

Certain gloves: U.S. rates of duty, present and negotiated, by TSUS items

(Percent ad valorem)

TSUS item No.	Description	Pre-MTN col. 1 rate of duty	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1—								Col. 2 rate of duty
			1980	1981	1982	1983	1984	1985	1986	1987	
704.40	Gloves, not lace or ornamented, of cotton and other vegetable fibers, made from pre-existing woven fabric.	25%	1/	1/	1/	1/	1/	1/	1/	1/	25%.
704.45	Gloves, not lace or ornamented, of cotton and other vegetable fibers, made from pre-existing knit fabric.	25%	1/	1/	1/	1/	1/	1/	1/	1/	25%.
705.35	Gloves of horsehide or cowhide (except calfskin) leather.	15%	2/	2/	2/	2/	2/	2/	2/	14%	61%.
705.85	Seamed rubber or plastic gloves with textile fabric fourchettes or sidewalls, or if wholly of plastic with heat-sealed seams.	15%	14.9% 3/	14.8%	14.6%	14.5%	14.4%	14.3%	14.1%	14%	25%.
705.86	Seamed rubber or plastic gloves without textile fabric fourchettes or sidewalls, and without heat-sealed seams.	35%	32.4% 3/	29.8%	27.1%	24.5%	21.9%	19.3%	16.6%	14%	75%.

1/ No concession granted in the Tokyo round of the MTN.
2/ The final rate will be achieved in 1 reduction effective Jan. 1, 1987.
3/ Effective July 1, 1980 with respect to articles exported to the United States on or after July 1, 1980.

None of the subject gloves is eligible for duty-free entry under the Generalized System of Preferences (GSP).[7] However, items 705.85 and 705.86 each have an LDDC rate of duty[8] of 14 percent ad valorem. Imports from certain Communist countries are assessed the higher column 2 rates.[9]

Because production of gloves is labor intensive, a few U.S. producers export glove parts cut in the United States to foreign countries, mainly to Barbados, where the parts are assembled (sewn) into finished gloves and returned to the United States under TSUS item 807.00. This item provides that the duty assessed on articles assembled abroad wholly or partly with U.S.-fabricated components is to be applied to the full value of the imported article less the value of the U.S. components.

STRUCTURE OF THE DOMESTIC INDUSTRY

Approximately 20 to 25 firms produce coated and partially coated work gloves. These firms are located primarily in the Northeast, Southeast, and Midwest. Some of these firms produce all types of work gloves—that is, all leather, leather palm, fabric, and rubber or plastic work gloves. There are no known U.S. producers of vinyl dress gloves.

The five largest U.S. producers of rubber and plastic work gloves accounted for an estimated 70 percent of total domestic production in 1982. Most of these firms manufacture primarily rubber and plastic work gloves. It is estimated that over 3,000 persons are employed in the production of these gloves.

U.S. PRODUCTION

Data on domestic production of coated and partially coated [10] and dipped supported work gloves are shown in the tabulation below. In 1980 and 1981, coated work gloves accounted for 53 percent and 57 percent, respectively, of total production. Data on production of this type of gloves are not available for 1982.

[In thousands of dozen pairs]

Year:	*Quantity* [1]
1978	4,573
1979	5,048
1980	4,314
1981	4,722
1982	3,710

[1] Estimated by the Work Glove Manufacturers' Association (WGMA) using 1980 Census data as a base. "Plastic dot" work gloves were excluded from Census data, because these gloves are classified as cotton gloves for import purposes.

Source: Compiled from official statistics of the U.S. Department of Commerce.

U.S. producers' shipments of these gloves increased from 4.6 million dozen pairs in 1978 to 5.0 million dozen pairs in 1979, or by 10 percent, and then decreased 27 percent to 3.7 million dozen pairs in 1982. Industry sources indicated that demand for these items has been sluggish since 1979 and that the industry is currently operating at 65 to 70 percent of capacity.

U.S. IMPORTS

Imports of the rubber and plastic gloves with textile fourchettes or sidewalls (TSUSA item 705.8520) and rubber and plastic gloves without textile fourchettes or

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[7] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

[8] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column numbered 1 applies.

[9] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[10] According to industry sources, U.S.-made coated work gloves are not constructed with fourchettes.

sidewalls (TSUS item 705.86) during 1978–82, according to official statistics of the U.S. Department of Commerce, are shown in the tabulation below:

Year	TSUSA item 705.8520		TSUSA item 705.8600		Total	
	Thousand dozen pairs	Thousand dollars	Thousand dozen pairs	Thousand dollars	Thousand dozen pairs	Thousand dollars
1978	3,025	25,478	465	2,554	3,490	28,032
1979	2,970	24,097	519	3,611	3,489	27,708
1980	1,610	14,453	411	3,061	2,021	17,514
1981	1,957	13,890	430	3,707	2,387	17,597
1982	1,272	10,336	364	3,071	1,636	13,407

Imports under both items decreased just over 50 percent, from 3.5 million dozen pairs valued at $28 million in 1978 to 1.6 million dozen pairs valued at $13.4 million in 1982. Imports of gloves with fourchettes (TSUSA item 705.8520) were much greater than those without fourchettes (TSUS item 705.86) and accounted for approximately 85 percent of the total during 1978–82. The imports of gloves with fourchettes consisted roughly of 60 percent vinyl dress gloves and 40 percent coated or partially coated work gloves. Therefore, it is estimated that the quantity of coated work gloves with fourchettes imported during the period was approximately twice the level of those without fourchettes.

Taiwan was the leading supplier of gloves with fourchettes until 1982, when the People's Republic of China became the major supplier. Less than 1 percent of the gloves entering under TSUSA item 705.8520 in 1982 were American goods returned under TSUS item 807.00.

The leading importers of these gloves in 1982 included major retailing firms, traditional glove importing companies, and a few domestic glove manufacturers.

Imports of rubber and plastic gloves without textile fourchettes or sidewalls (TSUS item 705.86) decreased irregularly, from 465,000 dozen pairs valued at $2.6 million in 1978 to 364,000 dozen pairs valued at $3.1 million in 1982. Much of this decrease resulted from the depressed activity of the major industrial users. Approximately two-thirds of the imports consisted of coated work gloves from Barbados entered under TSUS item 807.00. The remainder of the imports came primarily from Hong Kong, the Philippines, and Taiwan. The largest importer of these gloves is a domestic work glove producer. Other major importers consisted of traditional glove importing companies.

U.S. EXPORTS

Data on U.S. exports of these items are not separately reported; however, exports are believed to have totaled fewer than 500,000 dozen pairs in 1981.

APPARENT U.S. CONSUMPTION

Data on domestic production and imports are not comparable, because import statistics include data on vinyl dress gloves (primarily those entering under item 705.8520) while production statistics do not. However, the domestic work glove industry estimated the 1981 import-to-consumption ratio of the gloves entering under item 705.86 and those coated work gloves with textile fourchettes entering under item 705.8520 to total U.S. consumption of such gloves to be 20 percent or 1 to 5.[11]

POTENTIAL ANNUAL GAIN IN REVENUE

The amount of the potential gain in customs revenue depends upon the quantity of gloves reclassified from item 705.85 to item 705.86, which is estimated to be between 40–80 percent of the total value of gloves now entered under the former item. Therefore, the annual gain in revenue, based on 1982 trade, will likely range as follows: -

[11] Imports, for purposes of this ratio, include all gloves entered under item 705.86 and approximately 40 percent of gloves reported under 705.8520.

[In thousands of dollars]

Year:	*Gain in revenue*
1983	413,400–826,800
1984	310,050–620,100
1985	206,700–413,400
1986	103,350–206,700
1987	

TECHNICAL COMMENTS

If a new paragraph (c) is to be added to headnote 1 to part 1C of schedule 7, conforming changes should be made to paragraphs (a) and (b) by deleting the word "and" at the end of paragraph (a) and deleting the period at the end of paragraph (b) and substituting "; and" in lieu thereof. Furthermore, the phrase "with fourchettes" appears only at the statistical (nonstatutory) level in the TSUSA. Thus, the new definition should be modified to read 'the term "with textile fabric fourchettes" . . .', to quote the article description of item 705.85. Alternatively, that article description could be amended to incorporate the criteria suggested by the proposed legislation as drafted, so as to read "With textile fabric fourchettes extending from finger tip to finger tip between each of the four fingers; or with . . .". This language would not require a fourchette between the index finger and thumb. However, it should be noted that vinyl dress gloves having all non-textile fabric fourchettes or a combination of textile fabric and non-textile fabric fourchettes would be reclassified because of the words "textile fabric" in the article description. An alternative amendment taking the latter fact into account might read "With fourchettes, at least one of which is of textile fabric, extending the length of the fingers "textile fabric" in the article description. An alternative amendment taking the latter fact into account might read "With fourchettes, at least one of which is of textile fabric, extending the length of the fingers to the finger tips between each of the four fingers". Inserting this language in existing item 705.85 would require striking "With textile fabric fourchettes or sidewalls".

Since "or sidewalls" appears at the legal level only in item 705.85, it is suggested that the word "items" be made singular and "704.40, 704.45, 705.35, and" be deleted from subsection (b) of section 1.

In section 2, the comma after "warehouse" should be deleted and one inserted after "consumption".

GATT COMMENTS

It should be noted that the duty increase caused by this reclassification may result in claims for compensation by our trading partners under the General Agreement on Tariffs and Trade (GATT), Articles II and XXIII.

MAGID GLOVE & SAFETY MANUFACTURING CO.,
Chicago, Ill., May 2, 1983.

Mr. DON JASPERSON,
c/o Chairman Representative Sam Gibbons, Subcommittee on Trade of House Ways and Means Committee, House of Representatives, Washington, D.C.

DEAR SIR: I am writing in regard to H.R. 1938 involving the change of definition of rubber or plastic gloves with textile fourchettes or sidewalls. I have the following comments:

(1) It seems to me the underlying purpose of this bill is not to "clarify for duty purposes the distinction between dress gloves and work gloves," but to shift the classification of these gloves, and thereby, raise the duty rate.

Presently, plastic gloves with a sidewall or one fourchette come under 705,8520 at 14.5 percent. If this bill is passed, such gloves will come under 705.8600 at 24.5 percent.

(2) The reasoning behind the bill is faulty. It assumes dress gloves have fourchettes between all the fingers and work gloves do not. This is somewhat true, but not entirely. There are types of dress gloves without fourchettes and conversely types of work gloves with fourchettes.

Moreover, if a manufacturer wanted to thwart the intent of this bill, he could add fourchettes to a work glove. This would require a minimum of trouble and expense (especially in a low-wage country). The result would keep the "work" glove under the lower duty rate and invalidate any statistical comparisons between imported and domestically produced "work" gloves.

(3) The duty rate for 705.8600 is going down yearly, so by January 1, 1987, it will be the same as 705.8520. By Jan. 1, 1985, the difference will be only 5 percent. At this point, it will be just about meaningless, as the cost of sewing fourchettes will about balance the 5 percent savings. There will no longer be any duty advantage in adding fourchettes to gloves.

(4) If the tariff schedules are changed to the proposed "Harmonized System," all this will become meaningless.

It seems to me the only effect this bill would have is a short term increase in costs, until manufacturers and importers "adjust." It has little or no hope of improving the import statistics or competitive advantage of domestic manufacturers. I believe it's consideration and implementation (if passed) is a waste of time and money.

Thank you for your consideration of my views on this matter.

Sincerely,

SHELDON COHEN.

H.R. 1948

To amend the Tariff Act of 1930 regarding the public disclosure of certain manifest information.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 1948,[1] if enacted, would amend section 431 of the Tariff Act of 1930 (19 U.S.C. 1431) by adding an element (the shipper's name) to the list of information required to be included in the manifests which must be maintained and produced by the master of every vessel arriving in the United States and obliged to make customs entry.[2] The proposed legislation also makes seven categories of information contained in the manifests available for public disclosure, and three exceptions. First, the names of the individual importer, consignee, or shipper would be exempt from disclosure if the importer or consignee has made a biennial certification to the Secretary of the Treasury that such information is confidential. Second, information in any of the seven categories would be exempt from disclosure if the Secretary of the Treasury determines, on an individual shipment basis, that disclosure is likely to threaten personal injury or property damage. Third, information in each of the seven categories would be exempt from disclosure if covered by the provisions of 5 U.S.C. 552(b)1); i.e., matters specifically authorized under criteria set up in an Executive Order to be kept secret for defense or foreign policy reasons and properly classified under such criteria. Finally, the Secretary of the Treasury is directed to establish procedures for public access and for guarding exempt information from disclosure.

According to the sponsor of the legislation, it is modeled after the 1980 amendments to the Export Administration Act which authorized wider public disclosure of enumerated information included on shippers' export declarations.[3] The proposed legislation would provide substantially identical disclosure of information on import documents and would thereby benefit U.S. government agencies and firms, including port authorities, shipping companies, manufacturers, and state trade and development authorities. The sponsor asserts that the proposed legislation would provide increased access to import data while protecting confidential trade and business information.

STATUTORY BACKGROUND

Agencies of the Government,[4] including the U.S. Customs Service, are required to make available to the public various categories of information under the terms of the so-called Freedom of Information Act (FOIA), codified at 5 U.S.C. 552. Each agency must publish in the Federal Register information regarding its organizational structure, functions, rules of procedure, substantive rules of general application, and any changes in the foregoing. In addition, final orders and opinions, policy statements and interpretations, administrative staff manuals, and instructions to

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[1] H.R. 1948 has been revised substantially and has been introduced as H.R. 2588. This report, in particular the technical comments, focuses on H.R. 2588.

[2] Under section 441 of the Act (19 U.S.C. 1441), the following vessels are not required to make entry: vessels of war and certain public vessels used to convey letters or dispatches, passenger vessels making three or more trips per week between a U.S. port and a foreign port, ferryboats, licensed yachts or undocumented U.S. pleasure craft, vessels, vessels in distress or arriving to take on stores, and certain tugs.

[3] Cong. Record, March 7, 1983, p. E857; Pub. L. 96-275 of June 17, 1980, 94 Stat. 539, amending 46 U.S.C. 93.

[4] "Agencies" include each authority of the government, whether or not within or subject to review by another agency; but the Congress, U.S. courts, and governments of territories or possessions or of the District of Columbia are excluded under 5 U.S.C. 551 from both the FOIA and the other provisions of the Administrative Procedure Act (APA). That section exempts other specified entities from requirements of the APA, other than the FOIA.

staff affecting any member of the public must all be made available for sale or, at a minimum, for public inspection and copying, under procedures set out in duly promulgated regulations. Provision is made for administrative and judicial review of denied requests or those resulting in disclosure of only partial information.

Disclosure is not required or authorized for several classes of information under subsection (b) of section 552. These include properly classified matters concerning defense or foreign policy, internal personnel rules, matters exempted by other statutes providing no administrative discretion and having criteria for withholding, trade secrets and commercial or financial information obtained from a person confidentially or under privilege, certain interagency memoranda, personnel and medical or similar files (containing private matters), certain law enforcement investigatory records, records on the operation or condition of financial institutions, and geological and geophysical data or maps concerning wells. If reasonably segregable, these exempt matters must be deleted and the remainder of the records disclosed. The FOIA, after other procedures and reporting requirements are set forth, is made applicable to executive and military departments, government corporations (including government-controlled corporations), any independent regulatory agency, the Executive Office of the President, and any other U.S. government establishment in the executive branch, along with any other agency as defined in section 551(l).

The U.S. Customs Service accordingly implemented regulations under the terms of the FOIA in 19 CFR Part 103. Section 103.11 of that Part enumerates the Customs Service records subject to disclosure; subsection (b) provides that '. . . all other documents issued by the [Customs Service]'[5] will be disclosed if reasonably described unless exempted from disclosure under section 103.12. This group includes but is not limited to specified records, such as lists of personnel and names of customhouse brokers, and to twenty-three classes of decisions. Vessel manifests are covered separately in section 103.14, along with summary statistical reports. Members of the press may be permitted to examine manifests and to copy information and data not of a confidential nature for publicaton. From inward manifests, 'only the name of the consignee, the general character of the commodity, the quantity (or value) [but not both], name of vessel, and the country of dispatch shall be copied and published'. 19 CFR 103.14(a)(3). Members of the public may obtain that information but are not permitted to examine the manifests. Exporters or importers, or their duly authorized attorneys, brokers, or agents, may examine manifests covering goods in which they have 'a proper and legal interest' but are not permitted to make a general examination of manifests or any copies or notes from them, other than of documents in which such an interest is shown. If a consignee or an importer so requests in writing, any access to his name on an inward shipper's manifest will be refused. All of these provisions are still subject to the applications of section 103.12, which exempts from disclosure seven classes of information, including privileged or confidential trade secrets or commercial or financial information.

The Customs Service also receives from shippers their outward manifests, pursuant to 46 U.S.C. 93. Customs regulations prohibit the disclosure to the public, or the copying by members of the press, of commercial or financial information, including the names of consignees and any marks or numbers on the documents. 19 CFR 103.14(a) (1), (2). Members of the press may copy and publish the name and address of the shipper, vessel or carrier; the general description of the cargo, including its gross weight and the number of packages; the ports of exit and of destination; and the country of destination. The shipper may obtain confidential treatment of its name and address for two-year periods by applying to the regional commissioner having jurisdiction over the port of exportation. Again, members of the public other than persons interested in a consignment of goods may only obtain information from manifests. Disclosure is refused if the information is exempt under 5 U.S.C. 552(b)(1) (defense or foreign plicy exemption) or if the Secretary of the Treasury finds, as to an individual shipment, that disclosure is likely to threaten property damage or personal injury. 46 U.S.C. 93(d).

TECHNICAL COMMENTS

It is suggested that a second section providing an effective date be added to the proposed legislation, as follows:

"SEC. 2. The amendments made by this Act shall be effective with respect to the manifest of every vessel, required under section 431 (19 U.S.C. 1431) to have on

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[5] Subsection (a) makes available for public inspection and copying all administrative staff manuals, and any instructions to staff affecting a member of the public, except as exempted under section 103.12.

board a manifest, departing a foreign port and bound for a United States port on or after the date of enactment of this Act.".

This language would permit masters of vessels already en route to the United States on the Act's date of enactment to present manifests prepared under current law and would apply the disclosure provisions only to manifests prepared on or after that date.

AMERICAN ASSOCIATION OF EXPORTERS AND IMPORTERS,
New York, N.Y. April 29, 1983.

Re H.R. 1948/H.R. 2588.

Mr. JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MR. SALMON: This submission for the record represents the views of the American Association of Exporters and Importers (AAEI) concerning H.R. 1948, a bill introduced by Congressman Pease to amend the Tariff Act of 1930 regarding the public disclosure of certain manifest information. This bill, as well as other tariff bills, is the object of hearings by the Subcommittee on Trade which have been scheduled for April 27, May 5, and May 10, 1983. The deadline for submitting comments for the record is May 17.

AAEI understands that Congressman Pease introduced another bill—H.R. 2588—on the same subject but modified to meet objections put forth by the business community. However, H.R. 2588 has become part of H.R. 2602, an authorization bill for Customs, the U.S. International Trade Commission, and the USTR, which has since been marked up.

AAEI further understands that disclosure requirements contained in H.R. 2588 for import information is roughly equivalent to existing requirements for disclosure of export information, while requirements in H.R. 1948 appear to be more onerous. Both bills, though, would permit the importer or consignee, pursuant to procedures adopted by the Secretary of the Treasury, to claim by biennially certifying that such information should be confidentially treated.

Consequently, AAEI expresses its support for H.R. 2588 and strongly urges Congress to instruct that the Secretary of the Treasury, in adopting procedures for obtaining biennial certification, mandates that importers be given adequate notice as to when their two year certification period will be expiring.

Thank you for the opportunity to express our views on this matter. Please feel free to contact us if you have any questions.

Sincerely,

EUGENE J. MILOSH,
Executive Vice President.

STATEMENT OF ERIC RIDDER, PUBLISHER, THE JOURNAL OF COMMERCE

Mr. Chairman and members of the Trade Subcommittee, this statement is submitted on behalf of Eric Ridder, publisher of The Journal of Commerce, the daily business newspaper of the Knight-Ridder group, and the Import Bulletin, a weekly report on imports arriving at U.S. ports. The Journal's headquarters are located at 110 Wall Street, New York, New York 10005.

The Journal of Commerce supports H. 2588, legislation introduced by Congressman Don Pease to improve public access to information about imported goods coming into the United States. The legislation is also strongly supported by port authorities. Moreover, Congressman Pease has worked closely with the Joint Industry Group ("J.I.G.") in drafting the bill, and the J.I.G. finds the legislation acceptable.

H.R. 2588 is a revised version of H.R. 1948 which was introduced earlier this year by Congressman Pease. In response to comments from the J.I.G. the Customs Service, and others, Congressman Pease made a number of changes in H.R. 1948 and reintroduced the bill as H.R. 2588.

The Trade Subcommittee has included the full text of H.R. 2588 in the Customs Service authorization bill, H.R. 2602. The language was adopted unanimously by the Subcommittee during its mark-up April 20, 1983 and was approved by the full Ways and Means Committee on May 4, 1983.

DESCRIPTION OF H.R. 2588

H.R. 2588 amends the Tariff Act of 1930 to assure public access to certain information included on the import manifest. It also amends the list of items required to be on the manifest to include the identity of the shipper of the goods.

Under H.R. 2588, the general character of the cargo, the number of packages and their gross weight, the name of the vessel, the port of loading, port of discharge, and the country of origin of the shipment must all be made publicly available whenever this information appears on the manifest. In addition, H.R. 2588 provides that the name and address of the U.S. importer or consignee and the name and address of the shipper of the goods will also be available unless the U.S. importer has filed a certification claiming that such information is confidential. Such certification will have to be renewed every two years.

H.R. 2588 also contains provisions to protect the manifest information from disclosure if disclosure is likely to pose a threat of personal injury or property damage or if the information is exempt from disclosure under section 552(b)(1) of the Freedom of Information Act.

Finally, the bill requires the Secretary of the Treasury to establish procedures to provide publications with access to incoming manifests so that the information outlined above can be disseminated and published in a timely manner. The Journal of Commerce and other publications have been operating under such procedures for decades and this requirement codifies existing practice. These procedures also contain provisions to protect against disclosure of protected information.

BACKGROUND

Since 1827, the Journal of Commerce has published information about imported goods arriving in the United States. Originally our reporters on fast sloops would go out to meet incoming ships, copy their manifests, and pony express this information to merchants and other interested parties up and down the Eastern seaboard. Now reporters for The Journal work directly at the Customs House, copying import information from the manifests filed with the Customs Service. This information is published weekly in The Journal's Import Bulletin and it is also available on-line from PIERS, our computerized data base. There is simply no other public source of this importer specific information on a nationwide basis.

The information we publish as permitted by current Customs Service regulations includes a description of the imported goods, either the quantity or value (but not both) of the goods, the name of the ship on which they arrived, and the country from which they were exported. The name of the U.S. recipient of the goods is also published unless it has been exempted from disclosure by the Customs Service.

The import information is extremely important to a wide range of U.S. companies and governmental interest for a variety of reasons. U.S. shipping and related companies use the information on-line and in published form to identify and contact potential shipping customers and to market their services. U.S. manufacturers use the information to identify importers who might be potential customers for domestically manufactured goods instead. In addition, almost every major U.S. port authority is on-line and finds the information invaluable for long range planning, improving services, and competing for shipping business.

Moreover, many importers welcome the publication of their name together with a description of the goods they import in the Journal of Commerce. Publication informs potential customers in the U.S. and abroad that such goods are bing imported by them and has greatly assisted them in expanding their own markets.

CURRENT CUSTOMS SERVICE PRACTICE

Unfortunately, current policies of the Customs Service limit the import information publicly available, and thus limit the extent to which U.S. companies can benefit from the information. Some of the potentially most useful information on the import manifest is withheld as a matter of course. This includes the origination point of the shipment and the name and address of the foreign shipper.

By country of origin of the shipment, we mean the country from which the merchandise was first shipped in the import transaction. For example, if cotton goods were shipped to the U.S. via Rotterdam from a manufacturing plant in India or Belgium, the country of origin of the shipment would be India or Belgium. However if goods manufactured in the U.S. were returned to the U.S. from a German Federal Republic company via Rotterdam, the country of origin of the shipment will be the Federal Republic of Germany. In most instances, the country of origin of the shipment will be the country of the shipper.

Additionally, the Customs Service permanently withholds the identity of the U.S. importer/consignee if the importer/consignee submits a written request to do so. The Customs Service assumes that the information is confidential commercial and trade secret information, and thus is exempt from disclosure under the Freedom of Information Act. We believe that such an assumption is contrary to the provisions of the law. The FOIA permits agencies to withhold information under the trade secret exemption only if the facts warrant a finding that the particular information falls within the FOIA's definition of trade secret and commercial or financial information. This requires a demonstration that disclosure of the information is likely to cause substantial harm to the competitive position of the person from whom the information was obtained.

We believe the Customs Service policy violates the principles of the Freedom of Information Act in another very fundamental way. Not only does the Service make a blanket assumption about trade secrecy, but it then applies that assumption to all future shipments involving the importer/consignee submitting the request for confidentiality. In other words, once a request is made, the Customs Service will withhold their identity on all their imports for all time. Currently, the Customs Service is honoring confidentiality requests that may be as much as 40 or 50 years old. The procedures in H.R. 2588 will not require the Customs Service to justify every claim of exemption. It creates an opportunity for businesses to reasonably obtain confidentiality while providing maximum public access.

Ironically, the Customs Service's current practices are more protective of information about imports than exports. The issue of protection of export data was reviewed by the 96th Congress, which rejected the Customs Service practice of making blanket assumptions about the need for confidential treatment of export information. Congress enacted export legislation which allows export information to be withheld only if the company submitting the information certifies that it is confidential information. Moreover, requests for confidential treatment ("opt-outs") must be renewed every two years. As a result of this legislation, the requests for confidential treatment of export data have been cut in half with no cognizable adverse effects on the shippers and no administrative burdens on the U.S. Customs Service.

The Customs Service policy on imports cannot be justified in light of the treatment of export data. In fact, by its very nature, import data should be less sensitive and less deserving of Governmental protection than export data.

CONCLUSION

H.R. 2588 will correct the problems outlined above. It is a well balanced bill which assures public access to important information but at the same time protects the U.S. importers' legitimate needs for confidentiality. We support its enactment into law.

H.R. 1951

To amend the Tariff Schedules of the United States to suspend temporarily the duty on 4'Bis (a,a-dimethylbenzyl) diphenylamine.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27 and May 10, 1983, the Administration testified that it had no objection to a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

We believe that the effective date of all bills that are not a continuation of current tariff treatment should be no sooner than fifteen days after enactment. Providing an effective date fifteen days after enactment will enable the U.S. Customs Service to notify its field offices and U.S. importers of changes made.

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H.R. 1951—"To amend the Tariff Schedules of the United States to suspend temporarily the duty on 4'Bis (a, a-dimethylbenzyl) diphenylamine."

We have no objection to enactment of H.R. 1951. We understand that there is no domestic production of this chemical. We believe that duty suspension would benefit domestic users of this product at no cost to any U.S. producer of this or similar products. The USITC estimates that enactment of H.R. 1951, would result in potential revenue losses of $300,000–$400,000 per year.

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We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 1951, if enacted, would temporarily suspend the column 1 rate of duty [1] for 4,4'bis (α,α-dimethylbenzyl) diphenylamine, classified in item 404.88 of the Tariff Schedules of the United States (TSUS). The legislation would amend subpart B of part 1 of the Appendix to the TSUS to add a new item 907.06, providing free entry for the subject chemical from column 1 counties for a three-year period, commencing on the date of enactment and ending on or before June 30, 1986. The column 2 rate of duty [2] would remain unchanged.

At the present time, this chemical is not produced in the United States. The domestic consumer (the former domestic producer) currently manufactures this chemical at its Canadian plant. The domestic plant which had been used to produce this chemical is now fully utilized in the manufacture of pesticides. Therefore, the domestic consumer must now rely on imports from its Canadian plant as its only source of this chemical. The legislation would suspend the duty on this chemical;

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[1] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

[2] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

this duty presently increases the manufacturing costs of the derivative products and raises the ultimate costs to domestic and foreign purchasers.

DESCRIPTION AND USES

The synthetic organic chemical 4,4'-bis(α,α-dimethylbenzyl)diphenylamine, the subject of the legislation, is derived from aniline. Its primary use is as an antioxidant in urethane polymers, elastomers, other plastics and resins, and lubricating oils. The plastics and resins are eventually used for wire coatings and food packaging. This chemical is also used as an intermediate in the production of other chemicals. There are no differences in the quality of the domestic and imported products.

TARIFF TREATMENT

As a result of the Trade Agreements Act of 1979,[3] 4,4'-bis(α,α-dimethylbenzyl)diphenylamine, is presently classified in TSUS item 404.88, other amines and their derivatives provided for in the Chemical Appendix to the TSUS. As shown in the following table, item 404.88 has a column 1 (MFN) duty rate of 1.4 cents per pound plus 18.8 percent ad valorem. The column 2 rate is 7 cents per pound plus 60 percent ad valorem, and the LDDC rate [4] is 1.1 cents per pound plus 18.8 percent ad valorem.

The column 1 rate of duty is scheduled for annual staged reductions within the framework of the Tokyo round of the MTN, as shown in the following table. The chemicals classified in item 404.88 are not eligible for duty-free entry under the Generalized System of Preferences (GSP).[5]

STRUCTURE OF THE DOMESTIC INDUSTRY

Currently, this chemical is not produced in the United States. During 1978–82, there was only one domestic producer, Uniroyal, Inc., which manufactured this chemical at its plant in Naugatuck, Connecticut. In the second quarter of 1982, production of this chemical was shifted from Uniroyal's Naugatuck plant to its Elmira, Ontario plant to utilize more effectively the Canadian plant's facilities. The Naugatuck plant is now being used by Uniroyal to produce pesticides.

DOMESTIC PRODUCTION

During the past five years, domestic production data for this chemical were reported to the Commission by Uniroyal; however, these data could not be published because to do so would reveal confidential business information.

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[3] Section 223(d), 93 Stat. 205, 19 U.S.C. 1202. As a result of the Customs Valuation Agreement of the Multilateral Trade Negotiations (MTN), the "American selling price" (ASP) method of appraising certain benzenoid chemicals was eliminated. The Commission's recommendations, contained in "The Probable Economic Effect of U.S. Adoption of New Rules of Customs Valuation" (Report to the Special Trade Representative on Investigation No. 332-98) formed the basis for the provisions contained in section 223(d). Under the ASP method of appraisement, imported benzenoid products considered to be "competitive" with similar domestic products (accomplishing results in substantially the same manner) were appraised on the basis of the U.S. wholesale price of the similar domestic product. Other imported products were appraised based on the "United States value," relying on the wholesale price of the imported product, with such products generally assessed a lower duty than those appraised under ASP.

[4] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column numbered 1 applies.

[5] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

4'-Bis(α,α-dimethylbenzyl)diphenylamine: U.S. rates of duty, by TSUS item

(Cents per pound; percent ad valorem)

TSUS item No.	Description	Pre-MTN col. 1 rate of duty 1/	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1-- 1980 2/	1981	1982	1983
	Amines and their derivatives:					
	Other:					
404.88	Products provided for in the Chemical Appendix to the Tariff Schedules	1.7¢ + 12.5%	1.6¢ + 18.8%	1.5¢ + 18.8%	1.5¢ + 18.8%	1.4¢ + 18.8%

TSUS item No.	Description	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1-- 1984	1985	1986	1987	Col. 2 rate of duty
	Amines and their derivatives:					
	Other:					
404.88	Products provided for in the Chemical Appendix to the Tariff Schedules	1.3¢ + 18.8%	1.2¢ + 18.8%	1.2¢ + 18.8%	1.1¢ + 18.8%	7¢ 60%

1/ Rate effective prior to July 1, 1980.
2/ Rate effective after July 1, 1980.

U.S. IMPORTS

During 1978–82, imports of this chemical were relatively small; according to an industry source, because domestic production was able to satisfy demand. In 1982, imports gradually increased as production shifted to Canada, amounting to approximately 400,000 pounds valued at $660,000. These imports were essentially between Uniroyal's Canadian subsidiary and its domestic chemical division.

U.S. EXPORTS

Export data for this chemical are not available as it is classified in a residual (basket) Schedule B number for amines and their derivatives. According to an industry source, its exports were estimated, on the average, at approximately 70,000 pounds per year during 1978–82, mainly to Japan.

APPARENT U.S. CONSUMPTION

Data for domestic consumption of this chemical are not available; however, an industry source indicated that domestic production was essentially the same as domestic consumption during 1978–81. In 1982, imports accounted for virtually all domestic consumption after the midpoint of the year when production was shifted to Canada.

POTENTIAL ANNUAL LOSS OF REVENUE

Based on Commission data and information provided by the domestic importer of this chemical, the following are estimated revenue losses for the three-year period from 1983 through 1985.

Year:	*Estimated revenue loss* [1]
1983	$325,000
1984	356,000
1985	387,000

[1] Based on an average estimated value for this chemical of $1.65 per pound in 1983, 1984, and 1985. Imports are estimated at 1.0 million pounds in 1983, 1.1 million pounds in 1984, and 1.2 million pounds in 1985.

TECHNICAL COMMENTS

The chemical name of this compound is incorrectly written in this legislation. It should appear as "4,4'-Bis (α,α-dimethylbenzyl)diphenylamine".

To ease implementation of the suspension, it is suggested that "the fifteenth day following" be inserted after "after" in section 2.

H.R. 1953

To extend permanent duty-free treatment to semiconductors.

U.S. TRADE REPRESENTATIVE

This is in response to your request for the Administration's views on H.R. 1953, a bill "to extend permanent duty-free treatment to semiconductors."

H.R. 1953 would provide permanent duty-free entry for Tariff Schedule of the United States (TSUS) items 687.70 through 687.87. These items are currently dutiable at 4.2 percent or 5.1 percent, ad valorem. The Administration is opposed to this bill as currently drafted; however, we would have no objection to this bill if it were amended as discussed below.

Domestic companies producing three of the items in this bill, TSUS items 687.79, 687.83, and 687.87 face strong foreign competition. Reduction of the tariffs on these items would provide an unnecessary advantage for foreign producers. Therefore, the Administration opposes inclusion of these TSUS items in any duty suspension legislation. The bill's sponsor has indicated that he will delete these three items from the bill.

This is not a typical duty suspension proposal. The amount of trade involved is greater than the total of all the other miscellaneous tariff bills now before the Trade Subcommittee. The trade value of the imports covered by this bill was $4.13 billion in 1982, and the duties collected during that period were approximately $86 million.

Most of the U.S. imports of the items in this bill represent American products returned from abroad where labor intensive assembly procedures are done. These products enter the United States subject to TSUS item 807.00 which provides that duties be paid only on the value added abroad. Approximately 75 percent of the value of goods imported under these TSUS items benefit from the 807.00 provision, resulting in about 52 percent of the total value of imports of these products receiving duty-free treatment due to their U.S. origin.

The U.S. semiconductor industry strongly believes that the U.S. duty on semiconductors actually impairs its competitiveness while providing no significant barrier to imports from foreign producers. Removal of the duty would make available funds now used to process 807.00 paperwork and to pay the duties on captive imports. These funds, they believe, could be better used to strengthen the U.S. semiconductor industry and downstream high technology industries at a time when they face unprecedented demands for research, development, and capital funds. The industry has also stated that the maintenance of this duty is not a significant factor in individual company decisions to invest in the United States or abroad, and that its elimination would not, in itself, cause them to move facilities abroad.

While there may be good economic reasons to unilaterally reduce the U.S. tariff, the Administration opposes a tariff reduction of such magnitude without a prior Presidential determination that it is in the national economic interest, and an exploration of the possibility of mutual duty suspensions by countries benefiting from a U.S. reduction.

The Administration would have no objection to this bill if it were narrowed to cover only TSUS items 687.70, 687.72, 687.74, 687.77 687.81, and 687.85; and if the bill were amended to give the President discretionary authority to suspend the duties on these items after he determined that such suspensions would be in the national economic interest. Such a determination would be based on the advice of the U.S. Trade Representative as Chairman of the Trade Policy Committee. This determination would have to be made by April 1, 1984, or within six months of enactment of this legislation, whichever is later, or the authority would expire. Specific legislative language which the Administration would find acceptable is enclosed.

The Office of Management and Budget advises that there is no objection to presentation of these comments from the standpoint of the Administration's program.

H.R. 1953 SEMICONDUCTORS PROPOSED NEW LANGUAGE

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1 That subpart B of part 1 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by adding in numerical sequence the following new items:

TRANSISTORS AND OTHER RELATED ELECTRONIC CRYSTAL COMPONENTS

913.01	Transistors (provided for in item 687.70, part 5, schedule 6)	Free	Free	35% ad val.
913.02	Diodes and rectifiers (provided for in item 687.72, part 5, schedule 6)	Free	Free	35% ad val.
913.03	Monolithic integrated circuits (provided for in item 687.74, part 5, schedule 6)	Free	Free	35% ad val.
913.04	Other integrated circuits (provided for in item 687.77, part 5, schedule 6)	Free	Free	35% ad val.
913.05	Other components (provided for in item 687.81, part 5, schedule 6)	Free	Free	35% ad val.

OTHER, INCLUDING PARTS NOT SPECIFICALLY PROVIDED FOR

913.06	Parts of semiconductors (provided for in item 687.85, part 5, schedule 6)	Free	Free	35% ad val.

SEC. 2. The provisions of Section 1 shall become effective by April 1, 1984, or within six months from the date of enactment of this Act, whichever is later, if the President has determined that it is in the national economic interest for such suspensions to become effective. Any such determination shall be made after receiving the advice of the U.S. Trade Representative as Chairman of the Trade Policy Committee. Such suspensions shall remain in effect for a period of four years, subject to the provisions of Section 3.

SEC. 3. Any suspension of duties that takes effect under this act shall be treated as if proclaimed to implement a trade agreement under the Trade Act of 1974 as amended.

SECTION-BY-SECTION ANALYSIS

Section 1 provides that the tariffs with respect to certain semiconductor items are suspended and that zero rates of duty are imposed with respect to Column 1 and the LDDC countries. The 35% ad valorem rate for Column 2 countries remains unchanged.

Section 2 provides that the suspensions shall take effect only after the President determines that it would be in the national economic interest for the duty suspensions to take effect. Any such determinations must be based on the advice of the U.S. Trade Representatives as Chairman of the Trade Policy Committee, and be made by April 1, 1984 or within six months of the date of enactment, whichever is later. Once a positive determination is made, the suspensions remain in effect for four years unless terminated pursuant to Section 3.

Section 3 provides that the suspensions shall be treated as if proclaimed to implement a trade agreement. This provision would subject the suspensions to the termination provisions of Section 125 of the Trade Act of 1974 which allow the President to terminate in whole or in part any duty reduction proclaimed under the Act.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 1953, if enacted, would provide permanent duty-free treatment to semiconductors, and to parts of semiconductors as well. It would become effective upon the date of enactment.

DESCRIPTION AND USES

Semiconductors are solid-state, crystal devices produced from materials whose electrical resistivity characteristics place them between conductors and insulators. The desired electrical properties created in these semiconductor materials (principally silicon) are controlled by the interduction of small amounts of dopants or impurities. The principal types of semiconductor devices are transistors, diodes and rectifiers, and integrated circuits. Semiconductors are used in virtually all electronic products including digital computers, military equipment, and communications equipment. Parts of semiconductors are those devices, such as chips, dice, and wafters, which are solely or chiefly used in semiconductors and which are not more specifically provided for in the Tariff Schedules of the United States (TSUS).[1]

TARIFF TREATMENT

Semiconductors (and parts) are classified in TSUS items 687.70-.74, 687.77, 687.81, and 687.85. If imported from Canada and if the article qualifies as original motor-vehicle equipment, semiconductors (and parts) are entitled to duty-free treatment under item 687.89.

The specific semiconductor products described in this legislation include the following:

Item and description
687.70 Transistors.
687.72 Diodes and rectifiers.
687.74 Monolithic integrated circuits.
687.77 Other integrated circuits.
687.81 Other [related electronic crystal components].
687.85 Parts of semiconductors.[2]

Three additional TSUS classes are included within the scope of this legislation, although they are not properly described as "semiconductors".

Item and Description
687.79 Mounted piezo-electric crystals.
687.83 Parts of electronic tubes
687.87 Other [parts of mounted piezo-electric crystals].[3]

The rates of duty applicable to semiconductors (and parts) are determined by the trading status of the country of exportation. Semiconductors imported from countries afforded most-favored-nation (MFN) or colunm 1 treatment including certain least developed developing countries (LDDC's) are dutiable at 4.2 percent ad valorem.[4] [5] The 4.2 percent rate represents the final staged rate negotiated during the

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[1] See General Headnote 10 (ij), TSUS.

[2] Although item 687.85 is described as "parts of semiconductors", the staff understands the product coverage of this item to be the equivalent of "parts of transistors (687.70), diodes and rectifiers (687.72), monolithic integrated circuits (687.74), other integrated circuits (687.77), and other related electronic crystal components (687.81)". Parts of other related electronic crystal components (687.81) are included in item 687.85 as "parts of semiconductors" (rather than in the residual basket category—item 687.87) based on the staff's understanding that the term "semiconductors" includes the articles encompassed by the term "other related electronic crystal components".

[3] It should be noted that parts of mounted piezo-electric crystals are not properly described as parts of "semiconductors" despite the fact that this item (687.87) was one of those covered by the 1981 U.S.-Japan bilateral agreement which provided for mutual tariff reductions on semiconductors.

[4] The rates of duty in rate of duty column numbered 1 are most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for

Continued

Tokyo round of the Multilateral Trade Negotiations (MTN) which was accelerated in the U.S.-Japan bilateral agreement entered into on September 30, 1981.[6] Items 687.79 and 687.83 are dutiable at a column 1 rate of 5.1 percent ad valorem; item 687.87 is dutiable at 4.2 percent ad valorem. All of the foregoing articles if imported from certain countries which the President has designated as being under Communist control or domination are dutiable at the column 2 rate of 35 percent ad valorem.[7] Transistors, diodes, and rectifiers classified in items 687.70-.72 are the only semiconductor devices which have been designated for duty-free treatment under the Generalized System of Preferences (GSP).[8] The column 1 rates of duty resulting from the MTN are shown in the table below.

Semiconductors and parts: Pre-MTN rate and staged rate modifications, by TSUS items, 1980-83 1/

(Percent ad valorem)

TSUS item No.	Pre-MTN col. 1 rate of duty 2/	Rate of duty effective with respect to articles entered on or after Jan. 1--			
		1980	1981	1982	1983
687.70	6.0	5.8	5.6	4.24	4.2
687.72	6.0	5.8	5.6	4.24	4.2
687.74	6.0	5.8	5.6	4.24	4.2
687.77	6.0	5.8	5.6	4.24	4.2
687.81	6.0	5.8	5.6	4.24	4.2
687.85	6.0	5.8	5.6	4.24	4.2

1/ As modified by U.S.-Japan bilateral agreement in 1981.
2/ Rate effective prior to January 1, 1980.

STRUCTURE OF THE DOMESTIC INDUSTRY

Semiconductors (and parts) are produced by about 112 firms operating about 545 establishments if the United States. About 61 firms produce transistors and diodes and about 108 firms produce integrated circuits. Five firms account for about 65 percent of the value of annual U.S. shipments. The largest firms are located in New York, Texas, and California.

DOMESTIC SHIPMENTS

Domestic shipments of semiconductors (and parts) were estimated at $10.4 billion in 1982 increasing from $5.4 billion in 1978. About 20 percent of shipments are discrete devices (and parts) such as transistors and diodes and about 80 percent are integrated circuits (and parts).

MFN treatment. however, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the the Generalized System of preferences (GSP) or under the "LDDC" rate of duty column.

[6] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column numbered 1 applies.

[6] Presidential Proclamation 4889, December 29, 1981, 47 F.R. 1.

[7] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[8] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

Semiconductors (and parts): U.S. shipments, 1978–82

[In thousands of dollars]

Year:	*Value*
1978	5,402,593
1979	7,056,797
1980	8,993,780
1981 [1]	9,671,694
1982 [1]	10,370,000

[1] Estimated by the staff of the U.S. International Trade Commission.

Source: Compiled from official statistics of the U.S. Department of Commerce, except as noted.

U.S. IMPORTS

U.S. imports of semiconductors (and parts) increased from $1.8 billion in 1978 to $4.2 billion in 1982, a rise of 135 percent. Malaysia was the largest supplier during the 5-year period, accounting for 21 to 26 percent of imports. Singapore, Japan, and the Philippines were also large suppliers and, when combined with Malaysia, accounted for 68 percent of U.S. imports in 1982. Imports of semiconductors, entered under the provisions of TSUS item 807.00, account for a substantial share of total imports and reflect the rationalization of production by U.S. producers in developing countries. Imports from Communist countries were negligible. GSP treatment only became available for two items (687.70 and 687.72) during 9 months of 1982. Thus, the percentage of total 1982 imports of semiconductor devices which received GSP treatment is believed to be very small (less than 1 or 2 percent).

Semiconductors (and parts): U.S. imports, 1978–82

[In thousands of dollars]

Year:	*Value*
1978	1,790,338
1979	2,447,662
1980	3,348,107
1981	3,617,584
1982	4,205,115

Source: Compiled from official statistics of the U.S. Department of Commerce.

U.S. EXPORTS

U.S. exports of semiconductors (and parts) rose by 96 percent during 1978–82, increasing from about $2.0 billion to $3.8 billion. Since U.S. exports consist largely of parts shipped to developing countries where U.S. producers' plants are located, exporting areas are the same countries which account for a large share of U.S. imports. These countries include Malaysia, Singapore, the Philippines, and the Republic of Korea.

Semiconductors (and parts): U.S. exports, 1978–82

[In thousands of dollars]

Year:	*Value*
1978	1,952,839
1979	2,634,823
1980	3,477,234
1981	3,606,979
1982	3,821,715

Source: Compiled from official statistics of the U.S. Department of Commerce.

APPARENT U.S. CONSUMPTION

Apparent U.S. consumption of semiconductors (and parts) more than doubled during 1978–82, increasing from $5.2 billion to $10.8 billion. The largest increase occurred in 1980 when consumption increased by about $2 billion.

Semiconductors (and parts): U.S. exports, 1978–82

[In thousands of dollars]

Year:	*Value*
1978	5,240,092
1979	6,869,636

1980	8,864,653
1981 [1]	9,682,299
1982 [1]	10,753,400

[1] Estimated by the staff of the U.S. International Trade Commission.

Source: Compiled from official statistics of the U.S. Department of Commerce, except as noted.

POTENTIAL ANNUAL LOSS OF REVENUE

About 52 percent, by value, of U.S. semiconductor imports are entered free of duty under item 807.00. [9] The remaining 48 percent, by value, of U.S. semiconductor imports are subject to a rate of duty of 4.2 percent ad valorem in 1983, which is slightly lower than the duty rate of 4.24 percent in effect in 1982. Based on imports of $4.2 billion in 1982, and discounted for the duty-free portion representing American goods returned under item 807.00, the customs duty collected during 1982 amounted to about $86 million. Since the current rate of 4.2 percent represents the final staged rate negotiated during the Tokyo round, future rates of duty on semiconductors will not be further reduced. Thus, future annual revenue losses would amount to about 2 percent of the entered value of imports in each year, or approximately $86 million based on 1982 imports.

TECHNICAL COMMENTS

Certain aspects of the proposed legislation should be examined to determine, more precisely, the legislative intent. In addition to semiconductors and parts, this legislation also proposes to extend duty-free treatment to mounted piezo-electric crystals classified in item 687.79, parts of electronic tubes classified in item 687.83, and to parts to mounted piezo-electric crystals classified in item 687.87. It is not clear why these three product classes are included in the legislation, since they are not related to semiconductors or the semiconductor industry.

In addition, the proposed legislation does not address the question of semiconductor, light-emitting diodes classified as lamps under item 687.3010.[10] If the intent of the proposed legislation is to extend duty-free treatment to all semiconductors (and parts), consideration might also be given to extending duty-free treatment to these special discrete devices.

We note that the Customs Cooperation Council has proposed that LED's be grouped together with other semiconductor devices in the Harmonized Commodity Description and Coding System (the Harmonized System or HS) at heading 8541.40. And the United States International Trade Commission "Draft Conversion of the TSUS into the Nomenclature Structure of the Harmonized System" similarly proposes to group LED's together with other semiconductor devices (see item 8541.40.2000). (USITC Inv. No. 332-131, vol. 6, USITC Pub. No. 1213, January 1982).

If the Committee desires to include LED's within the scope of this legislation, we suggest the following language:

"That part 5 of schedule 6 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(1) by inserting "light-emitting diodes (LED's);" after "electric luminsecent lamps;" in the superior heading to item 686.30; and

"(2) by inserting in numerical sequence the following new item:

"687.31	Light-emitting diodes (LED's)	Free	20% ad val.".

This proposal will not alter the present customs practice of treating LED's as "lamps", but it will cause classification in the proposed item (687.31) to prevail over the present classification (687.30) by virtue of the "rule of relative specificity". (General Headnote 10(c), TSUS).

The legislation incorrectly deletes item 687.89, since it will be necessary to amend this item in order to retain the Automotive Products Trade Act (APTA) coverage for item 687.66 (Electronic tubes, except cathode-ray tubes). Products classifiable in item 687.66 are not semiconductors and will remain dutiable as the bill is now draft-

[9] That is, 52 percent, by value, represent American goods returned. Item 807.00 provides that duty is assessed upon the full value of the imported article, less the cost or value of such products of the United States.

[10] Light-emitting diodes (LED's) are semiconductor diodes that convert electric energy efficiently into spontaneous and noncoherent electromagnetic radiation at visible and near-infrared wavelengths by electroluminescence at a forward-biased pn junction. McGraw-Hill, "Dictionary of Scientific and Technical Terms, 2d Edition.

ed. In addition, if the Committee decides to remove items 687.79 (Mounted piezo-electric crystals), 687.83 (Parts of electronic tubes), and 687.87 (Parts of mounted piezo-electric crystals) from this legislation, it will be necessary to continue APTA coverage for these three items as well.

Accordingly, we suggest the following amended language for item 687.89:

"687.89	Any article described in the foregoing items 687.66, 687.79, 687.83 and 687.87, if Canadian article and original motor-vehicle equipment (see headnote 2, part 6B, schedule 6)	Free".

The legislation, on page 2, incorrectly shows "Free" in the LDDC column. This is unnecessary where the column 1 rate is "Free". The LDDC column, in such cases, should be blank. The material at the top of page 2 should be amended to read "Other, including parts not specially provided for" in lieu of "Other, including parts not specifically provided for".

Finally, the format of the proposed legislation can be simplified by striking all of the language after "amended" in section 1 of the bill and inserting the following in lieu thereof: "* * * by deleting the rate of duty listed in column numbered 1 for items 687.70, 687.72, 687.74, 687.77, 687.81 and 687.85 and inserting "Free" in lieu thereof."

GENERAL COMMENTS

Presently U.S. producers, under the provisions of TSUS item 807.00, pay an effective rate of duty on their imported semiconductors of about 2 percent ad valorem. Importers of wholly foreign-produced semiconductors pay the full duty rate, i.e., 4.2 percent ad valorem for imports from MFN sources. The proposed legislation would provide a larger duty reduction for wholly foreign-produced semiconductors; thus, greater benefits would accrue to foreign producers than to U.S. producers using the provisions of item 807.00. However, U.S. producers who take advantage of item 807.00 would be relieved of the expense of administrative overhead and the paperwork required by the Customs Service in administering item 807.00.

STATEMENT OF BETH C. RING, FREEMAN, WASSERMAN & SCHNEIDER, ON BEHALF OF EM CHEMICALS

INTRODUCTION

H.R. 1953 proposes to extend duty-free treatment to imported semiconductors and parts, including "electronic crystal components".

Our client, EM Chemicals, 5 Skyline Drive, Hawthorne, New York 10532, (which employs approximately 600 people in the United States), imports liquid crystals into the United States for sale to domestic producers of liquid crystal displays (LCD's). By a quirk in the administration of the Customs laws, these crystals are now assessed with high duties under the provisions for chemicals, instead of under the "electronics" provisions which are assessed with relatively low rates of duty. Except for some minor captive production, there are no domestic producers of liquid crystals to supply liquid crystals to United States LCD producers. However, domestic LCD's made with imported liquid crystals on which high duties are assessed must compete with low priced foreign LCD's on which low (or no) duties are assessed.[1] The resultant economic burdens have forced several American LCD producers out of business. We, therefore, urge that H.R. 1953 be amended so that liquid crystals are also afforded duty-free treatment.

LIQUID CRYSTALS AND THEIR USE

A. Description of liquid crystals

Liquid crystals are elongated organic molecules which possess a structural state intermediate between that of a liquid and that of a solid. They react reversibly by orienting themselves in a changing electric field. (In true liquids, molecules are randomly arranged without structure. On the other hand, in solids, atoms are orderly arranged with a rigid three-dimensional structure.)

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[1] LCD's are assessed under Item 685.70 TSUS at 3.4 percent ad valorem; however, LCD's imported from countries entitled to GSP may enter the United States duty-free.

There are three types of liquid crystals: smetic, nematic and cholesteric. In smetic liquid crystals, the molecules are arranged in definitive layers and oriented so that the molecules "stand on end", *i.e.*, the long axes of the molecules are perpendicular to the plane in which the molecules lay. Within each molecular layer, the molecules can be arranged in a regular rows, (*i.e.*, side-by-side) or they can be staggered with respect to each other.

In nematic liquid crystals, the long axes of the molecules are parallel to the plane of the plate but the individual layers of molecules are randomly arranged with respect to each other. Nematic liquid crystals transmit light more slowly perpendicular to the molecular layers than parallel to them. The application of an electric field causes the molecules to "line up" perpendicular to the electric field, and changes their optical properties. These make nematic liquid crystals ideally suitable for use in display panels.

Cholesteric liquid crystals are a type of liquid crystals which contain cholesteral molecules, although cholesterol by itself is not a liquid crystal.

B. Use of liquid crystals

Liquid crystals are used to make liquid crystal display panels. Normally, LCD's utilize mixtures of chemically different liquid crystals since mixtures have superior characteristics over individual liquid crystals.

Most LCD's utilize mixtures of nematic liquid crystals as the electro-optical medium. Normally, different types of liquid crystals are not interchangeable in LCD applications, although there has been active research on utilizing nematic-cholesteric liquid crystal mixtures as well as smetic liquid crystals in LCD's.

LCD's consist of a sandwich-type cell containing liquid crystals between two flat parallel plates, spaced approximately 10 millimicrons apart. One of the plates must be transparent while the other may serve as a "back" mirror. Each plate has the electronic connections necessary to activate the liquid crystals, *i.e.*, generate an electric field to cause the liquid crystals to rotate so that they are either perpendicular or otherwise oriented to the plates. The configuration of the electronics depends upon the application of the display. By use of polarizers above and below the liquid crystal sandwich, light is passed or blocked, in orchestration with the molecular orientation of the crystals causing alphanumeric or other characters to be "displayed".

LCD's are increasingly displacing light emitting diode displays (LED's) because they consume less power than LED panels. LCD's are used in a broad variety of equipment, appliance and apparatus in household products and electronic instrumentation. Some well known uses include watches, clock radios, calculators, competers, gas pumps, and various medical and scientific instrumention.

THE UNITED STATES MARKET

The market for liquid crystals in the United States is divided equally between manufacturers of watch panels and manufacturers of display panels. Four years ago, there were fifteen companies producing LCD display panels in the United States. However, due to severe underselling by Japanese imports, eight of these LCD producers were forced out of the display panel business, with a consequent loss of 865 jobs as follows:

Number employed making LCD's

Company and location:	
Microma—Cupertino, Calif	160
AMI—Santa Clara, Calif	90
Beckman—Fullerton, Calif	120
Hughes—Malibu, Calif	120
Hewlett Packard—Palo Alto, Calif	60
Motorola—Scottsdale, Ariz	135
Texas Instruments—Dallas, Tex	120
Timex—Waterbury, Conn	60

One of the major reasons for the LCD producers' inability to compete with the Japanese imports was due to the relatively high duty assessed on liquid crystals, which comprise approximately 30% of the cost of producing the display panels. Thus, LCD producers have found it cheaper to source and assemble their liquid crystal components outside the United States and either import the panels or sell to producers of finished electonic articles which incorporate the panels. In either event the panels or the electronic articles are imported into the United States at either relatively low rates of duty (approximately 4% ad valorem) or duty-free with the

benefit of GSP treatment.[2] The market for liquid crystals in the United States has consequently declined from $2.1 million in 1980 to $1.8 million in 1982.

The seven remaining LCD producers and their locations are as follows:

Company and location:	*Number employed making LCD's*
Micro Display (now Commodore)—Dallas, Tex	160
LCD Microsystems—Lenexa, Kan	35
Hamlin—Lake Mills, Wis	140
Crystaloid—Stowe, Ohio	90
LXD (now GE Displays)—Cleveland, Ohio	130
EDSI—Hatfield, Pa	15
UCE—Norwalk, Conn	15

Of these seven remaining LCD producers in the United States, three manufacture a small amount of liquid crystals for internal use in low quality applications (which represent approximately 10% of their consumption). For the more demanding applications, all LCD manufacturers must purchase liquid crystals on the open market, which, in the United States is supplied only by imports (almost entirely from EM chemicals). It is, therefore, clear that the high duty on liquid crystals has had a severely detrimental impact on the LCD producing industry in the United States.

TARIFF CLASSIFICATION

Liquid crystals are normally imported and mixtures of two or more chemically different liquid crystals. We understand that the Customs Service classified these mixtures under Tariff Schedule item 407.16 which provides for: "Mixtures in whole or in part of any of the products provided for in this subpart [Subpart B of Part I, Schedule 4] * * * Other."

Merchandise so classified is assessed with duty at the rate of 1.7 cents per pound plus 13.5% ad valorem but not less than the highest rate applicable to any component. This has resulted in assessments as high as 17.3% ad valorem.

DISCUSSION AND SUGGESTION

Liquid crystal mixtures are products advanced in condition to such a degree that they are no longer a chemical product but are more properly described as electronic products. Accordingly, a provision in Part 5 of Schedule 6 of the Tariff Schedules under the superior heading for "Electronic tubes (except X-ray tubes); photocells; transistors and other related electronic crystals components; mounted piezo-electric crystals; all the foregoing and parts thereof:" should be "broken out" to provide specifically for liquid crystals. Such classification is appropriate since liquid crystals are chiefly used in electronics applications, are analogous to LED's and piezo-electric crystals, and, as imported, have lost their identity as a chemical product, i.e., they are not utilized in the chemical industry for their chemical properties but are used in the electronics industry on the basis of their physical properties.

It is not necessary to be a fabricated semiconductor component to be classified in Part 5 of Schedule 6. For example, mounted piezo-electric crystals are provided for in this part of the Tariff Schedules under item 687.79. Piezo-electric crystals are not semiconductors, or even remotely related to semiconductors. Piezo-electric crystals are crystals which have the property of being able to convert a mechanical stress into an electostatic voltage and, conversely, the application of an electric field causes the piezo-electric crystals to expand or contract in certain directions. The chemical composition of piezo-electric crystals is not similar to that of semiconductors. Some well-known piezo-electric crystals are quartz (silicon dioxide), rochelle salt (sodium tartrate), ethylenediamine tartrate and ammonium dihydrogen phosphate. Liquid crystals are analogous to piezo-electric crystals in that the application of an electric shield induces a reversible physical change (molecular orientation). It is this physical change which enables the liquid crystals to be used to display panels.

Another example involves item 687.8505, TSUSA which specifically provides for wafers without imbedded semiconductor circuits or devices in Part 5 of Schedule 6. These wafers are a raw material, usually silicon metal, which is required to be processed to produce semiconductor devices or other related electronic crystal components for the electronics industry, some of which may compete with liquid crystals

[2] See Exhibit A for a list of the rates of duty applicable to some articles which may contain LCD's.

in the display market. Similarly, liquid crystals are a manufactured material used in the electronics industry as the active component in LCD's.

Liquid crystals are not sold on the basis of their chemical properties. They are sold solely on the basis of their physical properties relative to performance in LCD's. As imported, liquid crystals have no use as a chemical. Thy are not used as a solvent, or a feedstock to synthesize other chenicals, or to make a chemical end use products. They are chiefly used as the active electronic crystal component in LCD's.

United States LCD manufacturers are being adversely affected bylow duties imports of foreign LDC's.[3] As noted above, United States LCD manufactures must purchase imported liquid crystals, which are assessed with a very high rate of duty. By removing the duty on liguid crystals, the United States LCD manufactures' costs of production could be lowered, thereby becoming more price compertitive with LCD imports.

We therefore support HR 1953 but suggest it be amended to clearly provide for the duty-free entry of liquid crystals and liquid crystal mixtures. There wil be no adverse affect on a United States industry since there are no United States manufacturers of liquid crystals which sell to domestic LCD manufacturers. Further, dury-free entry of liquid crystals should aid the domestic LCD industry.

We suggest that H.R. 1953 be amended to read as follows:

Transistors and other related electronic crystal components; mounted piezo-electric crystals:

687.70—Transistors.
687.72—Diodes and rectifiers.
687.74—Monolithic integrated circuits.
687.77—Other integrated circuits.
687.78—Mounted piezo-electric Crystals.
687.79—Liquid crystals and mixtures thereof.
687.81—Other.

Other, including parts not specifically provided for:

687.83—Part of electronic tubes.
687.85—Parts of semiconductors.
687.87—Other.

EXHIBIT A

Article	Tariff Schedule item	Rate of duty
Alarms	685.70	3.4 percent.
Indicator panels	685.70	3.4 percent.
Computers	676.15	4.7 percent.
	676.20	4.4 percent.
Calculators	676.20	4.4 percent.
Medical Devices:		
Electro-surgical	709.15	13.0 percent.
Other	709.17	5.8 percent.
Thermometers (not liquid filled)	711.38	5.9 percent.
Electrical measuring, checking, controlling instruments	712.49	7.5 percent.
Control panels	685.90	6.9 percent.
Watches (assuming cases and movement imported together):		
If cases gold or platinum	720.20	10.5 percent and 26 cents each.
If cases silver	720.24	10.5 percent and 14 cents each.
Other	720.28	9.3 percent and 4.5 cents each.
Taximeters	711.90	18.0 percent.
Other counters and odometers (except bicycle speedometers)	711.98	2.5 percent.

[3] It appears that the principal exporter of LCD's to the United States of Japan. United States Department of Commerce, IM-146/.

HOUSE OF REPRESENTATIVES,
Washington, D.C., April 27, 1983.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I urge your support of H.R. 1953, to provide duty-free treatment for semiconductors.

This bill was introduced at the request of the Semiconductor Industry Association (SIA) as a way (1) to make the U.S. industry more competitive and (2) to force Japan to further liberalize trade in semiconductors.

It is a reciprocity bill in spirit, but not in letter—and to that extent, it is an unusual bill. The U.S. semiconductor industry believes that if the U.S. reduces its tariffs from 4.2% to zero, Japan will be "embarrassed" into following suit. Unilateral action is preferred over a "reciprocity" bill or a "key nation" bill, because it will be faster. If we enact the bill and Japan does not respond, we can restore the tariff, since we will not be bound to zero under the GATT.

The idea of unilateral action on a tariff is unusual, but in this case, I think we should trust the industry—and commend them for their initiative. The action of Japan in 1981 in speeding up its Tokyo Round tariff cuts on semiconductors (when it offered to end the substantial tariff advantage it had and to harmonize with the U.S. at the 4.2% level) is an example of how bold initiatives can work in this sector.

Removel of the tariff will also help eliminate an enormous amount of 807 paperwork and duties, and allow these resources to be used for research and investment. One of the top ten "chip" producers tells me they have about 20 people doing nothiong but keeping track of 807 paperwork! The overall tariff is so low, however, and the value added abroad is so low (36% in 1981), that I do not believe that this will encourage or accelerate the movement of plants offshore. Wage rates have already caused many "chip" factories to move abroad—the tariff is not the factor.

Since introducing the bill, we have heard objections from a number of others in the electronics industry, and I would like to urge that your Subcommittee amend the bill so that it suspends the tariff on five TSUS items only: 687.70, 687.74, 687.77, 687.81, and 687.85. We believe the industry is totally united on these items. It should make the bill non-controversial.

Finally, I note that tariff negotiating authority on these hi-tech items was included in the "Wiseman's Bill," introduced last Congress by yourself, Mr. Jones, and Mr. Frenzel. These items were included in last year's and this year's Reciprocity bills passed by the Senate (S. 2094 and S. 144). In the past, some Members have objected to including in a larger trade bill tariff negotiating authority for just these semiconductor items. They felt it was too narrow a sector for negotiation, and should be included in a general trade Round. This is a debate that may delay action in this fast-moving hi-tech sector for years—and therefore, I hope that you will favorably consider the passage of this bill as separate legislation, which does not involve the more complicated issue of general trade negotiating or reciprocity strategy.

Thank you for your consideration.

Sincerely,

FORTNEY H. (PETE) STARK,
Member of Congress.

H.R. 1967

To provide for an extension of the duty reduction on certain unwrought lead for a period of 5 years.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27 and May 10, 1983, the Administration testified that it had no objection to a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

We believe that the effective date of all bills that are not a continuation of current tariff treatment should be no sooner than fifteen days after enactment. Providing an effective date fifteen days after enactment will enable the U.S. Customs Service to notify its field offices and U.S. importers of changes made.

* * * * * * *

H.R. 1967—"To provide for an extension of the duty reduction on certain unwrought lead for a period of five years."

We have no objection to enactment of H.R. 1967. We believe that H.R. 1967 provides for a continuation of an adequate compromise between the interests of the domestic lead production industry and domestic consumers of lead. However, we wish to note again our concern over the provision of the legislation which would continue to limit the President's authority to modify the tariff rate once the bill has been enacted. We would prefer that these provisions be deleted. Although we have no plans to modify this tariff, we believe that legislating controls on the President's authority pertaining to the Generalized System of Preferences (GSP) is unfortunate and could encourage similar efforts on behalf of other industries. Revenue loss or gain will depend upon the prevailing price of unwrought lead. As long as the price of unwrought lead remains at or below 30.36¢ per pound, there will be a revenue increase.

* * * * * * *

We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

BACKGROUND

H.R. 1967, if enacted, would extend from June 30, 1983 to June 30, 1988, the effective period for the existing temporary modification in the column 1 duty rate [1] for certain unwrought lead afforded under item 911.50 in the Appendix to the Tariff Schedules of the United States (TSUS).[2] The duty on unwrought lead other than lead bullion provided for in TSUS item 624.03 was reduced by section 114, Public Law 96-609, effective December 28, 1980, from a rate of 3.5 percent ad valorem on

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[1] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

[2] The column 2 duty rate, which applies to products of those Communist countries enumerated in TSUS general headnote 3(f), would not be affected.

the value of the lead content to a rate of "3% ad val. on the value of the lead content, but not less than 1.0625¢ per lb. on the lead content".

Public Law 96-609 further provided that such temporary duty rate cannot be modified by Presidential proclamation, except under the authority of Title II of the Trade Act of 1974 (which provides for relief from injury caused by import competition); nor can additional duties or import fees be imposed on such unwrought lead, except those provided for under the amendments made by Title I of the Trade Agreement Act of 1979 (pertaining to countervailing and antidumping duties. This legislation would also amend section 114 of Public Law 96-609 to extend the effective period of such restrictions on the modification of the duty rate on unwrought lead to June 30, 1988.

This legislation was introduced as a measure to aid both producers and consumers of unwrought lead by maintaining the present treatment of unwrought lead and thereby contributing to the stability of price and supply in the primary lead market.

DESCRIPTION AND USES

The articles covered by the proposed legislation are unwrought lead other than lead bullion, as described in TSUS item 624.03.

Lead is a soft, heavy, malleable metal that is the most corrosion resistant of the common metals. Unwrought lead is generally cast in ingots, pigs, or jumbo blocks. It can be produced in four grades that are differentiated by the presence or absence of certain other metals; however, most lead is produced in only two of these grades. There are no significant differences between domestic and imported unwrought lead in terms of physical or quality characteristics. Use in battery components accounts for 63 percent of total lead consumption; use in gasoline additives accounts for 14 percent; and use in other products such as pigments, solders, cable coverings, and ammunition each accounts for a small fraction of consumption.

In the lead industry there are two distinct sources of production. Primary lead is produced by smelting and refining lead concentrates. Secondary lead is derived from the salvage of obsolete, lead-bearing products, such as battery plates, cable coverings, pipe and sheet, which are remelted and refined in secondary smelters to produce refined lead and various lead based alloys. In recent years, secondary lead has accounted for about 55 percent of total lead production.

TARIFF TREATMENT

Unwrought lead other than lead bullion is provided for in TSUS item 624.03 with a column 1 duty rate of 3.5 percent ad valorem on the value of the lead content. No LDDC rate of duty [3] is provided, and the column 2 rate of duty is 10.0 percent ad valorem. Unwrought lead other than lead bullion is not an eligible article for purposes of the GSP and therefore is not eligible for duty-free entry when imported from designated beneficiary developing countries.[4]

The current reduced column 1 rate of duty of 3.0 percent ad valorem on the value of the lead content, but not less than 1.0625¢ per pound on the lead content, is provided in TSUS item 911.50, which will remain in effect until June 30, 1983.

BACKGROUND AND ORIGIN OF ITEM 911.50

Before January 1, 1980, the unwrought lead provided for in TSUS item 624.03 was subject to a specific column 1 duty rate of 1.0625¢ per pound on the lead content. In 1978, the Special Representative for Trade Negotiations (STR) requested the U.S. International Trade Commission to prepare a report providing ad valorem equivalent (AVE) rates of duty for those items which were subject to specific or compound rates of duty at that time. These AVE's were to be based on a survey of trade data covering a recent representative period for each TSUS item. For most items it was neces-

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[3] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column numbered 1 applies.

[4] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

sary to use the year 1976 as that period. This investigation, Conversion of Specific and Compound Rates of Duty to Ad Valorem Rates (Inv. 332-99), resulted in an AVE of 5.1 percent for item 624.03 for column 1 and 10.2 percent for column 2. The 5.1 percent figure was used as the basis for negotiations under the Tokyo round of Multilateral Trade Negotiations (MTN) and was reduced to 4 percent as a result of an MTN concession. The present column 1 rate of 3.5 percent ad valorem on the lead content was agreed to by the United States in a bilateral agreement with Mexico.[5] However, during 1978 and 1979 the price of unwrought lead rose, as general inflation and world demand increased. Consequently, the AVE based on 1978 values of imports under item 624.03 dropped to 3.1 percent, and the AVE based on 1979 imports dropped to approximately 2.0 percent. The column 1 duty rate for item 624.03 of 3.5 percent ad valorem on the value of the lead content thus resulted in an effective increase in duty over the specific column 1 duty rate of 1.0625¢ per pound on lead content, which had been in effect for that item prior to January 1, 1980. The temporary duty modification provided in item 911.50 was intended not only to rectify this anomaly but to fix as a floor the previously imposed specific rate.

CURRENT SITUATION

Since 1979 the price of unwrought lead has decreased due to weak demand and the economic recession. The AVE's of the specific rate of duty of 1.0625¢ per pound on lead content have increased. The recent AVE's, average unit values of imports and average U.S. producer prices as reported by the U.S. Bureau of Mines are as follows:

Year	AVE (percent)	Average unit value of imports (cents per pound)	Average U.S. producer price (cents per pound)
1976	5.01	21.2	23.1
1977	3.60	29.5	30.7
1978	3.11	34.2	33.7
1979	2.04	52.0	52.6
1980	2.17	48.9	42.5
1981	2.70	39.3	36.5
1982	3.79	28.0	25.5

In 1982 the price of lead dropped to the level at which the specific rate of duty (1.0625¢ per pound) was greater than the applicable ad valorem rate of duty (3.0 percent on the value of the lead content) provided in item 911.50. Moreover, the temporary modification under item 911.50 resulted in the collection of a duty which was higher (3.79 percent AVE on the value of the lead content) than would have been collected under TSUS item 614.03 (3.5 percent).

STRUCTURE OF THE DOMESTIC INDUSTRY

Amax, Inc., Asarco, Inc., and St. Joe Minerals Corp. produce primary unwrought lead at 5 smelters and 4 refineries in Missouri, Montana, Texas, and Nebraska. Secondary unwrought lead is produced by over 30 firms, of which 15 account for over 90 percent of the secondary production. The secondary producers include RSR Corp., GNB Battery, Inc., and Federated Metals Corp. (owned in part by Asarco, Inc.).

[5] The United States entered into a trade agreement with Mexico on October 31, 1979. In expectation of the accession of Mexico to the GATT, tariff concessions were granted by the United States on litharge, red lead, and unwrought lead (items 624.02 and 624.03). These tariff concessions were implemented by Pres. Proc. 4707, December 11, 1979. On March 18, 1980, the President of Mexico announced that Mexico would not accede to the GATT. Subsequent negotiations between the United States and Mexico resulted in only partially equivalent substitute concessions having been received from Mexico. Since the United States did not agree that these offers, by Mexico, would result in benefits to the United States equivalent to those which would have been afforded by Mexican accession to the GATT, the United States partially suspended its concession on litharge. (Pres. Proc. 4792, September 15, 1980.) The tariff concessions on both litharge and red lead were further suspended by Pres. Proc. 4817, January 17, 1981, based on "the extent of concessions which have been received from Mexico" and section 114 of Public Law 96-609.

The primary lead industry employs about 1,400 persons while the secondary industry employs 2,000 persons.

DOMESTIC PRODUCTION

Domestic production of unwrought lead by quantity (lead content) and value, according to the U.S. Bureau of Mines, has been as follows:

[Dollars in thousands]

Year	Quantity (short tons)	Value
1978	1,472,304	$989,939
1979	1,521,013	1,598,023
1980	1,350,644	1,144,987
1981	1,254,619	915,221
1982	1,193,590	609,686

U.S. IMPORTS

Imports of unwrought lead other than lead bullion (TSUS 624.03) were as follows during 1978–82: [6]

[Dollars in thousands]

Year	Quantity (short tons contained lead)	Value
1978	248,467	$169,847
1979	201,227	209,344
1980	89,618	87,629
1981	110,349	86,818
1982	104,561	58,604

The principal import sources in 1982 were Canada (47 percent) and Mexico (21 percent); there were no imports subject to column 2 duty rates. The importers included battery manufacturers, metal traders, and domestic producers, such as Ethyl Corp., Virginia; Exide Corp., Pennsylvania; Johnson Controls, Inc., Wisconsin; Chem-met Co., Illinois; Commercial Metals Co., Texas; and Noranda Sales, New York.

U.S. EXPORTS

Exports of unwrought lead other than lead bullion (Schedule B numbers 624.0330 and 624.0350) were as follows during 1978–82:

[Dollars in thousands]

Year	Quantity (short tons)	Value
1978	2,752	$2,421
1979	6,358	7,883
1980	111,766	102,024
1981	15,096	12,894
1982	48,676	30,660

The principal export markets were Belgium, Luxembourg, and the Netherlands. The principal exporters were the primary and secondary producers.

[6] Official statistics of Department of Commerce.

APPARENT U.S. CONSUMPTION

Apparent consumption of unwrought lead other than lead bullion was as follows:

[Dollars in thousands]

Year	Quantity (short tons)	Value
1978	1,718,019	$1,157,365
1979	1,715,882	1,799,484
1980	1,328,496	1,130,592
1981	1,349,872	989,145
1982	1,249,475	637,630

POTENTIAL CHANGE IN REVENUE

As indicated earlier, because of the declining average unit value of imports, the specific rate of 1.0625¢ per pound on the value of the lead content was greater than the ad valorem rate of 3.0 percent in 1982. Thus, based on the current average unit value of imports (28.0¢ per pound) and the 1982 import level, it is estimated that enactment of this legislation would result in an annual duty increase of approximately $107,755, continuing as long as the price of unwrought lead remains below 30.36¢ per pound.

GATT COMMENTS

It should be noted that a possible problem may arise under the General Agreement on Trade and Tariffs (GATT) in that the effective duty rate, which on its face appears to be a duty reduction but which in practice (at current lead prices) is a duty increase above the bound duty rate of 3.5 percent ad valorem. This could result in a claim for compensation by our GATT partners under Articles II and XXIII.

SCHUYLKILL METALS CORP.,
Baton Rouge, La., April 28, 1983.

MR. JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MR. SALMON: This letter is written in support of HR 1967 and S906 which extend the reduced tariff rate on unwrought lead until June 30, 1988. The tariff was temporarily reduced by Sec. 114 of Public Law 96-609 for the period January 1, 1980 through June 30, 1983 from 3.5 percent to 3.0 percent on the value of lead content, but not less than 1.0625¢ per pound of lead content.

Our company, Schuylkill Metals Corporation, is a Secondary Lead Producer. In terms of capacity we are probably the largest Secondary Lead Producer in the United States. Our industry has been severely depressed by current world prices for lead, and it can ill afford any reduction in tariffs for imported material—a condition that would exist if we drop the minimum 1.0625¢ existing tariff. We urge the passage of HR 1967 to continue the minimum 1.0625¢ per pound minimum protection level.

Very truly yours,

EARL B. CORNETTE,
Executive Vice President.

H.R. 1986

To amend the Tariff Act of 1930 regarding the country of origin marking requirements for certain imported pipe and pipe fittings.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27, 1983, the Administration testified that it objected to enactment of a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

* * * * * * *

H.R. 1986—"To amend the Tariff Act of 1930 regarding the country of origin marking requirements for certain imported pipe and pipe fittings."

We object to enactment of H.R 1986. Imposition of additional marking and labeling requirements on imported goods contradicts our attempts to encourage foreign governments to reduce similar requirements and other nontariff barriers which impede U.S. exports. We oppose additional marking and labeling requirements unless they are necessary to provide essential information to consumers or to protect the public health and welfare. In this case, additional information is not necessary. We believe that users of pipes and pipe fittings have access to information as to the origin either through company markings or information available to the suppliers. If the U.S. producers believe that it is important for U.S. buyers to know that pipe or pipe fittings are made in the United States, they might consider so marking their products. We note also that procedures are available to prosecute fraudulent sale of imported goods sold as products manufactured in the United States. If H.R. 1986 is enacted, it would not result in a loss of revenue to the U.S. Treasury.

* * * * * * *

We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 1986, if enacted, would require that enumerated types of imported pipes and pipe fittings be marked with the name in English of the country of origin by means of die stamping, cast-in-mold lettering, etching or engraving. The legislation would amend section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) to provide that no exception from the marking requirements could be made as to the subject pipes and pipe fittings. Domestic producers and domestic consumers of pipes and pipe fittings have asserted that country of origin markings currently in use—many of which are in ink or paint or are in the form of removable labels—are easily removed, making proper identification difficult or impossible. The markings required by the proposed legislation would be permanent and thus eliminate any possible confusion or fraud as to the origin of these articles. The marking requirements would apply to merchandise entered on or after the date of enactment of the legislation; merchandise already loaded for transit to the United States on or before the date of enactment would not, however, be subject to the requirements.

DESCRIPTION AND USES

For the most part, the terms "pipes", "tubes", and "tubular products" can be used interchangeably. When distinctions are made, the term "pipe" is used to refer to

tubular products produced in large quantities to a few standard sizes, whereas tubes are made to customers' specifications. Steel pipes and tubes can be divided into the two general categories, based on the method of manufacture, of welded or seamless products. They are further distinguished by the type or grade of steel used in their manufacture: carbon, heat-resisting (alloy carbon), stainless, or other alloy. Although the majority of all pipes and tubes are made from carbon steel, alloying elements are often added to permit their use in applications requiring enhanced temperature, pressure, or corrosion resistance properties.

Pipes and tubes are also classified based on their end uses. Standard pipes are intended for low pressure conveyance of water, steam, and other liquids or gases; line pipes are used for the transportation of gas, oil, or water in utility systems; and structural pipes and tubes are used for framing or support in the construction industry. In addition, oil country tubular goods are steel pipes and tubes used in the drilling of oil and gas wells; mechanical tubing is employed in a number of mechanical applications, including bicycle and motorcycle frames and parts, fishing rods, and posts and poles; and pressure tubes are used to convey fluids and gases at elevated temperatures and pressures. Pipes and tubes are typically manufactured in circular, square, or rectangular cross-sections.

Pipe fittings are used to join length of pipe together, in straight lengths or in angles. Fittings may be of cast iron or of steel but are always specified to withstand the same levels of pressure, heat, and corrosion as do the pipes they are coupling.

BACKGROUND INFORMATION

Under section 304 of the Tariff Act of 1930, as amended, every article of foreign origin or its container must be conspicuously, legibly, indelibly, and permanently marked in English with the name of the country of origin of the article, unless any of the specific exceptions listed applies, in view of the nature of the article. Unless excepted, articles not marked at importation must be marked before delivery. Failure to comply with any provision results in the imposition of a marking duty of 10 percent ad valorem; any intentional removal, destruction, alteration, or defacement of a country of origin marking can result in criminal penalties of a fine up to $5,000 or one year imprisonment. To be excepted from the marking requirements, an article must be covered by a statutory exemption and/or be listed in regulations issued by the Secretary of the Treasury. The statutory exceptions cover articles incapable of being marked, articles to be processed in a manner which would destroy or cover the mark[1], and similar classes of articles. The so-called "J-list", which enumerates articles exempted under section 1304(a)(3)(J) (19 U.S.C. 1304(a)(3)(J)), appears at 19 CFR 134.33. The outer container of a J-list article imported in a container, and in which that article usually reaches the ultimate consumer, must be marked to show the country of origin of its contents.

Among the articles on the J-list are "pipes, iron or steel, and pipe fittings of cast or malleable iron (except cast iron soil pipe and fittings)".[2] Other pipes and pipe fittings, however, must be in compliance with marking requirements. Of particular importance as to these articles are regulations concerning the method to be used for marking and the degree of permanence which the resulting mark must achieve. The Customs Service suggests generally that metal articles be marked by etching, molding, or die sinking the name of the country of origin (19 CFR 134.41(a)). In addition, it is stated in 19 CFR 134.41(b) that: "[t]he degree of permanence should be at least sufficient to insure that in any reasonably foreseeable circumstance, the marking shall remain on the article (or its container) until it reaches the ultimate purchaser unless it is deliberately removed. The marking must survive normal distribution and store handling. The ultimate purchaser in the United States must be able to find the marking easily and read it without strain."

Unless a specific method of marking articles has been required by the Customs Service, any method achieving the objectives of the statute is acceptable (19 CFR 134.44). Articles may be marked with paper stickers or tags conspicuously located

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[1] Under 19 CFR 134.36, articles imported for processing by the importer or for his account are not excepted by section 304(a)(3)(G) ". . . if there is a reasonable method of marking which will not be obliterated, destroyed, or permanently concealed by such processing ". Nor are articles covered by this exception if imported, prior to processing, for purposes of concealing their origin.

[2] The parenthetical exclusion from this exemption was added in T.D. 71-89 on the basis that imports of these articles prior to 1937 had been insignificant, the articles were large enough to be marked, and the articles were commingled with domestic articles. This exception originally appeared on the J-list in T.D. 49896 of June 24, 1939, without the parenthetical language. The marking exemption was based upon the existence of substantial quantities of imports in the five years immediately preceding January 1, 1937, which imports were not required to be marked.

and securely attached in such a way that the marks would remain with the articles (unless deliberately removed) until they reach the ultimate purchasers. Similarly, painting, stenciling, affixing metal plates, and many other methods are likely to be approved. In a statement submitted for the record to the Subcommittee on Trade, House Ways and Means Committee, the American Pipe Fittings Association indicated that adhesive labels are being used to mark imported pipe fittings and flanges, as are stenciled and engraved markings; the Association also referred to the use of labels to mark imported pipes.[3]

TARIFF TREATMENT

Tables 1 and 2 (attached) provide information on the tariff treatment of the affected articles, including column 1 rates of duty,[4] staged reductions in the column 1 rates, the least developed developing country (LDDC) rates,[5] column 2 rates,[6] and the current GSP status of such articles.[7]

RECENT INVESTIGATIONS

The Commission's Investigation No. 337-TA-29 resulted in the issuance of a cease and desist order directing the respondent in that case to cease and desist from selling certain welded stainless steel pipes and tubes at prices lower than the average variable cost of production of such pipes and tubes without commercial justification. That order was disapproved by the President.

Investigation No. 701-TA-9 (Preliminary) concerning malleable pipe fittings was terminated on March 24, 1980, when the petitioners withdrew their petition.

In Investigation No. 731-TA-15 (Preliminary), including the reconsideration of the existence of material injury as to one product category, the Commission found no reasonable indication of material injury as to welded and seamless pipes and tubes of iron or steel caused by imports of such articles from Japan (See 49 F.R. 47769, July 16, 1980). In a subsequent investigation filed by the same petitioner following judicial review, the Commission determined that material injury to a domestic industry had resulted from imports of seamless heat-resisting steel and seamless stainless steel pipes and tubes from Japan. (Investigation No. 731-TA-87, February 14, 1983, 48 F.R. 7823).

In Investigation No. 701-TA-168, the Commission found material injury had occurred by reason of imports of small diameter welded carbon steel pipes and tubes from Korea. (48 F.R. 6795, February 15, 1983). Finally, on April 21, 1983, the Commission instituted Investigations No. 731-TA-131 and -132 (Preliminary) to determine if a reasonable indication of injury exists as to imports of welded carbon steel pipes and tubes from Korea and Taiwan. (48 F.R. 20164, May 4, 1983).

STRUCTURE OF THE DOMESTIC INDUSTRY

There are two types of producers of pipe and tube—large, integrated companies, which manufacture a wide variety of steel mill products from steel which they produce in their own plants; and smaller, non-integrated companies, which purchase semi-finished steel which they form into pipes and tubes. The wide variety of sizes,

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[3] Statement of May 10, 1983, in support of H.R. 1986, pp. 3-4.

[4] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

[5] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column numbered 1 applies.

[6] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[7] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

dimensions, and applications of pipes and tubes provides competitive opportunities for the small producers. According to data published by the American Iron and Steel Institute, there are approximately 18 U.S. producers of standard pipes, 21 producers of oil country tubular goods, 17 producers of line pipe, 23 producers of mechanical pipes and tubes, 17 producers of pressure tubes, 17 producers of structural pipes and tubes, and 20 producers of stainless steel pipes and tubes.

In spite of the large number of firms manufacturing pipes and tubes in the United States, the bulk of production in the major product groups is concentrated in a few firms. Three firms, all of them integrated, produce 52 percent of the small diameter (under 16 inches) welded carbon steel pipes and tubes; 3 integrated firms produce 64 percent of the large diameter welded carbon steel pipes and tubes; and 3 firms, all of them specialty steel producers, produce 99 percent of seamless stainless steel pipes and tubes. Other major product groups are thought to have similar concentration ratios, according to industry sources. Facilities for the manufacture of pipes and tubes are located throughout the United States, with considerable production in Western Pennsylvania, Texas, and California.

According to the 1977 Census of Manufactures, the U.S. pipe fittings industry was composed of 114 establishments. Firms ranged from family-owned establishments concentrating in one product line to large multi-plant foundries or forging operations. Although numerous firms produce these fittings, some concentration has developed. It was estimated in that Census that a few large companies accounted for 26 percent of production in 1977. Manufacturing facilities tend to be concentrated around large metropolitan areas; among the states, Pennsylvania has the largest number of pipe-fitting establishments.

DOMESTIC PRODUCTION

Data on domestic production of pipes and pipe fittings are not available; data on producers' shipments during 1978–82 are given in the following table:

PIPE AND PIPE FITTINGS: U.S. PRODUCERS' SHIPMENTS, 1978–82

[Dollars in thousands]

Year	Quantity (1,000 short tons)	Value
1978	13,310	$10,661,745
1979	11,421	10,029,983
1980	13,524	13,830,884
1981	13,330	15,799,078
1982	8,458	9,577,065

Source: Compiled from data of the American Pipe Fitting Association and the U.S. Department of Commerce.

U.S. IMPORTS

Data on imports of pipes and pipe fittings during 1978–82 are presented in the following table:

PIPE AND PIPE FITTINGS: U.S. IMPORTS FOR CONSUMPTION, 1978–82

[Dollars in thousands]

Year	Quantity (1,000 short tons)	Value
1978	3,152	$1,406,231
1979	3,029	1,574,177
1980	3,889	2,244,608
1981	6,726	4,821,548
1982	5,392	4,377,612

Source: Compiled from data of the American Pipe Fitting Association and the U.S. Department of Commerce.

The principal sources of U.S. imports in 1982 were Japan (45 percent of the total quantity), West Germany (11 percent), South Korea (11 percent), and Italy (8 percent). Imports from column 2 sources in 1982 totaled 11,253 tons.

There are hundreds of firms which import welded and seamless steel pipes and tubes into the United States. These firms are generally independent trading companies, U.S. subsidiaries of foreign producers, or steel service centers/distributors. The independent trading companies and U.S. subsidiaries of foreign producers frequently act as distributors, warehousing the product and filling orders from inventory. In addition, there are some firms which import the product for their own use.

U.S. EXPORTS

Data on U.S. exports of pipes and pipe fittings during 1978–82 are as follows:

PIPE AND PIPE FITTINGS: U.S. EXPORTS OF DOMESTIC MERCHANDISE, 1978–82

[Dollars in thousands]

Year	Quantity (1,000 short tons)	Value
1978	794	$797,921
1979	823	1,076,580
1980	594	1,080,470
1981	608	1,251,876
1982	578	1,214,029

Source: Compiled from official statistics of the U.S. Department of Commerce.

APPARENT U.S. CONSUMPTION

The table on page 10 contains data on apparent U.S. consumption of pipes and pipe fittings (producers' shipments, plus imports, less exports) during 1978–82.

PIPE AND PIPE FITTINGS: APPARENT U.S. CONSUMPTION, 1978–82

Year	Quantity (1,000 short tons)	Value
1978	15,668	$8,779,886
1979	13,627	8,193,660
1980	16,818	14,995,022
1981	19,448	19,368,750
1982	13,272	12,740,648

POTENTIAL ANNUAL LOSS (OR GAIN) OF REVENUE

Since the proposed legislation is not a duty or classification bill, there would be no direct effect on revenue.

TECHNICAL COMMENTS

The proposed legislation would prevent the Secretary of the Treasury from granting an exemption from marking requirements for the subject pipes and fittings under any of the exceptions set forth in section 304(a)(3). Thus, for example, even if an importer were to bring pipes into this country for his own use and not for resale, or if marking some pipes or fittings in the manner specified in the legislation were commercially prohibitive (that is, too costly to permit importation or injurious to the product in view of its characteristics or use), the articles would still be required to be marked. Similarly, no exception could be made on the grounds that the ultimate purchaser would necessarily know the country of origin by reason of the circumstances of importation, or that the articles were produced more than twenty years prior to importation. It may therefore be desirable to delete "(a)(3)" and to insert "(a)(3)(J)" in lieu thereof. This would require the removal of pipes and fittings from the J-list, ending an automatic exception and necessitating review by the Secretary of the Treasury to see if any other exception is properly applicable. It would then be necessary to insert the phrase "if not otherwise excepted under subsection (a)" after "which", to take into account any ruling of the Secretary granting an exception under other provisions of subsection (a)(3). Alternatively, a proviso

could be added to subsection (a)(1) to specify the method of marking for these articles and a second proviso added to (a)(3)(J) to exclude these articles from the category. It should be noted that, since markings present at importation may be destroyed during processing, problems as to the marking of articles imported for processing are not likely to be resolved by either the proposed draft or the above amendment.

It is suggested that the effective date provision of this legislation can be simplified while still providing adequate notice to exporters and importers of these products by amending section 2 to read as follows:

"SEC. 2. The amendments made by the first section of this Act shall apply with respect to articles exported on or after the date of enactment of this Act.".

GATT COMMENTS

It should be noted, given the long-standing practice of exempting some pipes and pipe fittings from the marking requirements of section 304, that the new provisions may be viewed as a nontariff trade barrier, particularly since U.S. producers of these articles are not presently required to mark their manufacturers as "made in U.S.A.". The provisions of Article IX of the General Agreement on Tariffs and Trade should be noted in this regard, along with Article III, paragraph 3 concerning national treatment.

Table 1.--Certain imported pipe and pipe fittings: U.S. rate of duty currently applicable to TSUSA categories covered by H.R. 1906 and ad valorem equivalent rates where applicable

CSP	Item	Stat. Suffix	Articles	Units of Quantity	Rates of Duty		
					1	LDDC	2
			Pipes and tubes and blanks therefor, all the foregoing of iron (except cast iron) or steel:				
			Welded, jointed, or seamed, with walls not thinner than 0.065 inch, and of circular cross section:				
			Other than alloy iron or steel:				
	610.30	00	Under 0.25 inch in outside diameter.....	Lb.....	5.0% ad val.	4.5% ad val.	13% ad val.
	610.31	00	0.25 inch or more but under 0.375 inch in outside diameter.....	Lb.....	3% ad val.	2.6% ad val.	6.5% ad val.
	610.32		0.375 inch or more in outside diameter...	.....	1.9% ad val.		5.3% ad val.
		05	Suitable for use in boilers, superheaters, heat exchangers, condensers, and feedwater heaters...	Lb.			
			Other:				
			Conforming to A.P.I. specifications for line pipe (Std. 5L, 5LS, or 5LX):				
		08	Not over 4.5 inches in outside diameter.....	Lb.			
		09	Over 4.5 inches but not over 16 inches in outside diameter.....	Lb.			
		11	Over 16 inches in outside diameter.....	Lb.			
			Conforming to A.P.I. specifications for oil well tubing:				
		14	Imported with coupling....	Lb.			
		19	Other.....	Lb.			
		21	Cold drawn pipes and tubes.....	Lb.			
			Other:				
		27	Cold rolled pipes and tubes with wall thickness not exceeding 0.1 inch.....	Lb.			
			Other:				
			Not over 4.5 inches in outside diameter:				
			Imported with coupling:				
		31	Galvanized.....	Lb.			
		32	Other.....	Lb.			
			Other:				
		41	Galvanized.....	Lb.			
		46	Other.....	Lb.			
		47	Over 4.5 inches but not over 16 inches in outside diameter.....	Lb.			
		51	Over 16 inches in outside diameter.....	Lb.			
			Alloy iron or steel:				
	610.35	00	Under 0.25 inch in outside diameter.....	Lb.....	4.6% ad val. + additional duties (see headnote 4)	3.7% ad val. + additional duties (see headnote 4)	10% ad val. + additional duties (see headnote 4)
	610.36	00	0.25 inch or more but under 0.375 inch in outside diameter.....	Lb.....	4.2% ad val. + additional duties (see headnote 4)	3.5% ad val. + additional duties (see headnote 4)	9.5% ad val + additional duties (see headnote 4)

Table 1.--Certain imported pipe and pipe fittings: U.S. rate of duty currently applicable to TSUSA categories covered by H.R. 1986 and ad valorem equivalent rates where applicable--Continued

GSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty		
					1	LDDC	2
			Pipes and tubes and blanks therefor, etc. (con.):				
			Welded, jointed, or seamed, etc. (con.):				
			Alloy iron or steel (con.):				
	610.37		0.375 inch or more in outside diameter...	.....	4.9% ad val. + additional duties (see headnote 4)		10% ad val. + additional duties (see headnote 4)
			Suitable for use in boilers, superheaters, heat exchangers, condensers, and feedwater heaters:				
		01	Stainless steel.....	Lb.			
		04	Other.....	Lb.			
			Other:				
			Conforming to A.P.I. specifications for line pipe (Std. 5L, 5LX, 5LS):				
		11	Not over 4.5 inches in outside diameter.....	Lb.			
		12	Over 4.5 inches but not over 16 inches in outside diameter.....	Lb.			
		13	Over 16 inches in outside diameter.....	Lb.			
			Conforming to A.P.I. specifications for oil well tubing:				
		21	Imported with coupling....	Lb.			
		22	Other.....	Lb.			
			Cold drawn pipes and tubes:				
		27	Stainless steel.....	Lb.			
		28	Other.....	Lb.			
			Other:				
			Cold rolled pipes and tubes with wall thickness not exceeding 0.1 inch:				
		31	Stainless steel.....	Lb.			
		32	Other.....	Lb.			
			Other:				
			Stainless steel:				
		41	Not over 4.5 inches in outside diameter...	Lb.			
		42	Over 4.5 inches in outside diameter.....	Lb.			
		51	Other.....	Lb.			

Table 1.--Certain imported pipe and pipe fittings: U.S. rate of duty currently applicable to TSUSA categories covered by H.R. 1986 and ad valorem equivalent rates where applicable--Continued

GSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty		
					1	LDDC	2
			Pipes and tubes and blanks therefore, etc. (con.):				
			Other:				
			Steel pipe conforming to the A.P.I. specifications for oil well casing and steel pipes and tubes of rectangular cross section, whether welded or seamless, having a wall thickness not less than 0.156 inch:				
			Not threaded and not otherwise advanced:				
	610.39		Other than alloy steel	.....	0.5% ad val.		1% ad val.*
		25	Oil well casing: Seamless	Lb.			
		35	Oil well casing: Other	Lb.			
		45	Other: Seamless	Lb.			
		55	Other: Other	Lb.			
	610.40		Alloy steel	.....	4% ad val. + additional duties (see headnote 4)	3.3% ad val. + additional duties (see headnote 4)	8.5% ad val. + additional duties (see headnote 4)
		25	Oil well casing: Seamless	Lb.			
		35	Oil well casing: Other	Lb.			
		45	Other: Seamless	Lb.			
		55	Other: Other	Lb.			
			Threaded or otherwise advanced:				
	610.42		Other than alloy steel	.....	7% ad val.	6% ad val.	20% ad val.
		25	Oil well casing: Seamless	Lb.			
		35	Oil well casing: Other	Lb.			
		45	Other: Seamless	Lb.			
		55	Other: Other	Lb.			
	610.43		Alloy steel	.....	9.4% ad val. + additional duties (see headnote 4)	6.2% ad val. + additional duties (see headnote 4)	28% ad val. + additional duties (see headnote 4)
		25	Oil well casing: Seamless	Lb.			
		35	Oil well casing: Other	Lb.			
		45	Other: Seamless	Lb.			
		55	Other: Other	Lb.			
			Other:				
			Suitable for use in the manufacture of ball or roller bearings:				
	610.45	00	Other than alloy iron or steel	Lb.....	9.4% ad val.	6.2% ad val.	25% ad val.
	610.46	00	Alloy iron or steel	Lb.....	10.9% ad val. + additional duties (see headnote 4)	6.7% ad val. + additional duties (see headnote 4)	33% ad val. + additional duties (see headnote 4)

Table 1.--Certain imported pipe and pipe fittings: U.S. rate of duty currently applicable to TSUSA categories covered by H.R. 1986 and ad valorem equivalent rates where applicable--Continued

GSP	Item	Stat. Suffix	Articles	Units of Quantity	Rates of Duty		
					1	LDDC	2
			Pipes and tubes and blanks therefor, etc. (con.):				
			Other (con.)				
			Other (con.):				
			Not suitable for use in the manufacture of ball or roller bearings:				
			Other than alloy iron or steel:				
	610.48	00	Hollow bars	Lb.	9.4% ad val.	6.2% ad val.	22% ad val.
	610.49		Other		9.7% ad val.	8% ad val.	25% ad val.
		20	Seamless, suitable for use in boilers, superheaters, heat exchangers, condensers, refining furnaces, and feedwater heaters	Lb.			
			Other:				
			Conforming to A.P.I. specifications for line pipe (Std. 5L, 5LX, or 5LS):				
		31	Not over 4.5 inches in outside diameter	Lb.			
		33	Over 4.5 inches but not over 16 inches in outside diameter	Lb.			
		36	Over 16 inches in outside diameter	Lb.			
			Conforming to A.P.I. specifications for oil well tubing:				
		42	Imported with coupling	Lb.			
		44	Other	Lb.			
		46	Conforming to A.P.I. specifications for oil well drill pipe	Lb.			
		48	Cold drawn pipes and tubes	Lb.			
			Other:				
			Of circular cross section, not over 4.5 inches in outside diameter:				
		51	Galvanized, imported with coupling	Lb.			

Table 1.--Certain imported pipe and pipe fittings: U.S. rate of duty currently applicable to TSUSA categories covered by H.R. 1986 and ad valorem equivalent rates where applicable--Continued

GSP	Item	Stat. Suffix	Articles	Units of Quantity	Rates of Duty		
					1	LDDC	2
			Pipes and tubes and blanks therefor, etc. (con.):				
			Other (con.)				
			Other (con.):				
			Not suitable for use in the manufacture of ball or roller bearings (con.):				
			Other than alloy iron or steel (con.):				
	610.49 (con.)		Other (con.)				
			Other (con.):				
			Other (con.):				
			Of circular cross section, not over 4.5 inches in outside diameter (con.):				
		52	Galvanized, not imported with coupling	Lb.			
		60	Other, imported with coupling	Lb.			
		61	Other, not imported with coupling	Lb.			
		65	Of circular cross section, over 4.5 inches but not over 16 inches in outside diameter	Lb.			
		70	Of circular cross section, over 16 inches in outside diameter	Lb.			
		75	Other	Lb.			
			Alloy iron or steel:				
	610.51		Hollow bars	.....	5/ 11.2% ad val. + additional duties (see headnote 4)	7.5% ad val. + additional duties (see headnote 4)	30% ad val. + additional duties (see headnote 4)
		30	Stainless steel and heat resisting steel	Lb.			
		60	Other	Lb.			
	610.52		Other	.....	1/ 11.2% ad val. + additional duties (see headnote 4)	7.5% ad val. + additional duties (see headnote 4)	35% ad val. + additional duties (see headnote 4)
			Seamless, suitable for use in boilers, superheaters, heat exchangers, condensers, refining furnaces, and feedwater heaters:				
		05	Stainless steel	Lb.			
			Other:				
		06	Containing 0.4 percent or more of molybdenum	Lb.			
		08	Other	Lb.			

(See supp. 2/11/83)

Table 1.--Certain imported pipe and pipe fittings: U.S. rate of duty currently applicable to TSUSA categories covered by H.R. 1986 and ad valorem equivalent rates where applicable--Continued

GSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty: 1	LDDC	2
			Pipes and tubes and blanks therefor, etc. (con.):				
			Other (con.)				
			Other (con.):				
			Not suitable for use in the manufacture of ball or roller bearings (con.):				
			Alloy iron or steel (con.):				
	610.52 (con.)		Other (con.)				
			Other:				
			Conforming to A.P.I. specifications for line pipe (Std. 5L, 5LX, 5LS):				
		11	Not over 4.5 inches in outside diameter...	Lb.			
		14	Over 4.5 inches but not over 16 inches in outside diameter...	Lb.			
		16	Over 16 inches in outside diameter.....	Lb.			
			Conforming to A.P.I. specifications for oil well tubing:				
		21	Imported with coupling.....	Lb.			
		22	Other.....	Lb.			
		26	Conforming to A.P.I. specifications for oil well drill pipe..	Lb.			
		29	Cold drawn pipes and tubes.....	Lb.			
			Other:				
			Stainless steel:				
		30	Seamless...	Lb.			
		31	Other.....	Lb.			
			Heat resisting steel:				
		34	Seamless...	Lb.			
		36	Other.....	Lb.			
		41	Containing 0.4 percent or more of molybdenum (other than stainless or heat resisting steel).....	Lb.			
			Other:				
		46	Seamless...	Lb.			
		47	Other.....	Lb.			

Table 1.--Certain imported pipe and pipe fittings: U.S. rate of duty currently applicable to TSUSA categories covered by H.R. 1986 and ad valorem equivalent rates where applicable--Continued

GSP	Item	Stat. Suf-fix	Articles	Units of Quantity	Rates of Duty		
					1	LDDC	2
			Cast-iron pipes and tubes:				
A	610.56		Other than alloy cast iron	.....	8% ad val.	4% ad val.	25% ad val.
		20	Cast-iron soil pipe	Lb.			
		35	Cast-iron pressure pipe under 14 inches (inside diameter)	Lb.			
		45	Other	Lb.			
A	610.58	00	Alloy cast iron	Lb.....	10.2% ad val. + additional duties (see headnote 4)	6.5% ad val. + additional duties (see headnote 4)	33% ad val. + additional duties (see headnote 4)
			Pipe and tube fittings of iron or steel:				
			Cast-iron fittings, not malleable:				
			For cast-iron pipe:				
A	610.62		Cast iron, other than alloy cast iron	.....	8.6% ad val.	5.8% ad val.	25% ad val.
		20	For cast-iron soil pipe	Lb.			
		40	Other	Lb.			
A	610.63	00	Alloy cast iron	Lb.....	10.2% ad val. + additional duties (see headnote 4)	6.5% ad val. + additional duties (see headnote 4)	33% ad val. + additional duties (see headnote 4)
			Not for cast-iron pipe:				
A	610.65	00	Cast iron, other than alloy cast iron	Lb.....	2.8% ad val.	2.5% ad val.	20% ad val.
A	610.66	00	Alloy cast iron	Lb.....	4.6% ad val. + additional duties (see headnote 4)	3.7% ad val. + additional duties (see headnote 4)	28% ad val. + additional duties (see headnote 4)
			Cast-iron fittings, malleable:				
			Not advanced in condition by operations or processes subsequent to the casting process:				
A	610.70	00	Cast iron, other than alloy cast iron	Lb.....	7% ad val.	5.1% ad val.	20% ad val.
A	610.71	00	Alloy cast iron	Lb.....	8.6% ad val. + additional duties (see headnote 4)	5.8% ad val. + additional duties (see headnote)	28% ad val. + additional duties (see headnote 4)
A	610.74	00	Advanced in condition by operations or processes subsequent to the casting process	Lb.....	9.4% ad val.	6.2% ad val.	45% ad val.
A	610.80		Other fittings	.....	9.4% ad val.	6.2% ad val.	45% ad val.
		08	Ductile fittings	Lb.			
			Other:				
			Flanges:				
			Under 14 inches (inside diameter):				
		13	Other than alloy iron or steel	Lb.			
			Alloy iron or steel:				
		15	Stainless steel	Lb.			
		18	Other	Lb.			
			14 inches and over (inside diameter):				
		21	Other than alloy iron or steel	Lb.			
			Alloy iron or steel:				
		24	Stainless steel	Lb.			
		28	Other	Lb.			

(1st supp. 2/11/83)

Table 1.--Certain imported pipe and pipe fittings: U.S. rate of duty currently applicable to TSUSA categories covered by H.R. 1986 and ad valorem equivalent rates where applicable--Continued

GSP	Item	Stat. Suffix	Articles	Units of Quantity	Rates of Duty		
					1	LDDC	2
A	610.80 (con.)		Pipe and tube fittings of iron or steel (con.): Other fittings (con.): Other:				
			Couplings:				
		35	Other than alloy iron or steel	Lb.			
		42	Alloy iron or steel	Lb.			
			Other:				
			Butt-weld type fittings:				
			Under 14 inches (inside diameter):				
		46	Other than alloy iron or steel	Lb.			
			Alloy iron or steel:				
		48	Stainless steel	Lb.			
		55	Other	Lb.			
			14 inches and over (inside diameter):				
		58	Other than alloy iron or steel	Lb.			
			Alloy iron or steel:				
		60	Stainless steel	Lb.			
		62	Other	Lb.			
			Socket-weld or threaded:				
		66	Other than alloy iron or steel	Lb.			
		68	Alloy iron or steel	Lb.			
		75	Other	Lb.			
	610.81	00	If Canadian article and original motor-vehicle equipment (see headnote 2, part 4B, schedule 6)	Lb.	Free		

Note: The symbol "A" in the GSP column indicates that imports of such articles from all designated beneficiary developing countries are eligible for duty-free treatment.

Table 2.--Certain imported pipe and pipe fittings: U.S. staged rates of duty applicable to TSUSA categories covered by H.R. 1986

Modifications of column 1 rates of duty by Pres. Proc. 4707 (Tokyo Round), December 11, 1979, 44 F.R. 72348, as amended and Pres. Proc. 4768 (Customs Valuation Code), June 28, 1980, 45 F.R. 45795, as amended (see Preface):

TSUS item	Prior rate	Rates of duty 1/, effective with respect to articles entered, or withdrawn from warehouse, for consumption on and after --							
		January 1, 1980 except as noted	January 1, 1981	January 1, 1982	January 1, 1983	January 1, 1984	January 1, 1985	January 1, 1986	January 1, 1987
610.30	0.875¢ per lb.	0.875¢/lb.	0.875¢/lb.	6.2%	5.8%	5.5%	5.2%	4.8%	4.5%
610.31	0.625¢ per lb.	0.625¢/lb.	0.625¢/lb.	3.1%	3%	2.9%	2.8%	2.7%	2.6%
610.32	0.3¢ per lb.	0.3¢/lb.	0.3¢/lb.	1.9%	1.9%	1.9%	1.9%	1.9%	1.9%
610.33	0.875¢ per lb. + 4% ad val. + additional duties	0.875¢/lb. + 4% + additional duties	0.875¢/lb. + 4% + additional duties	4.8% + additional duties	4.6% + additional duties	4.4% + additional duties	4.1% + additional duties	3.9% + additional duties	3.7% + additional duties
610.36	0.625¢ per lb. + 4% ad val. + additional duties	0.625¢/lb. + 4% + additional duties	0.625¢/lb. + 4% + additional duties	4.4% + additional duties	4.2% + additional duties	4.1% + additional duties	3.9% + additional duties	3.7% + additional duties	3.5% + additional duties
610.37	0.3¢ per lb. + 4% ad val. + additional duties	4.9% + additional duties	4.9% + additional duties	4.9% + additional duties	4.9% + additional duties	4.9% + additional duties	4.9% + additional duties	4.9% + additional duties	4.9% + additional duties
610.39	0.1¢ per lb.	0.1¢/lb.	0.1¢/lb.	0.5%	0.5%	0.5%	0.5%	0.5%	0.5%
610.40	0.1¢ per lb. + 4% ad val. + additional duties	0.1¢/lb. + 4% + additional duties	0.1¢/lb. + 4% + additional duties	4.1% + additional duties	4% + additional duties	3.8% + additional duties	3.6% + additional duties	3.5% + additional duties	3.3% + additional duties
610.42	7.5% ad val.	7.5%	7.5%	7.3%	7%	6.8%	6.5%	6.3%	6%
610.43	13% ad val. + additional duties	11% + additional duties	11% + additional duties	10.2% + additional duties	9.4% + additional duties	8.6% + additional duties	7.8% + additional duties	7% + additional duties	6.2% + additional duties
610.45	11% ad val.	11%	11%	10.2%	9.4%	8.6%	7.8%	7%	6.2%
610.46	13% ad val. + additional duties	13% + additional duties	13% + additional duties	12% + additional duties	10.9% + additional duties	9.9% + additional duties	8.8% + additional duties	7.8% + additional duties	6.7% + additional duties
610.48	11% ad val.	11%	11%	10.2%	9.4%	8.6%	7.8%	7%	6.2%
610.49	10.5% ad val.	10.5%	10.5%	10.1%	9.7%	9.3%	8.8%	8.4%	8%
610.51	13% ad val. + additional duties	13% + additional duties	13% + additional duties	12.1% + additional duties	11.2% + additional duties	10.3% + additional duties	9.3% + additional duties	8.4% + additional duties	7.5% + additional duties
610.52	13% ad val. + additional duties	13% + additional duties	13% + additional duties	12.1% + additional duties	11.2% + additional duties	10.3% + additional duties	9.3% + additional duties	8.4% + additional duties	7.5% + additional duties
610.55	9% ad val.	10%	10%	9%	8%	7%	6%	5%	4%
610.58	12% ad val. + additional duties	12% + additional duties	12% + additional duties	11.1% + additional duties	10.2% + additional duties	9.3% + additional duties	8.3% + additional duties	7.4% + additional duties	6.5% + additional duties
610.62	10% ad val.	10%	10%	9.3%	8.6%	7.9%	7.2%	6.5%	5.8%
610.63	12% ad val. + additional duties	12% + additional duties	12% + additional duties	11.1% + additional duties	10.2% + additional duties	9.3% + additional duties	8.3% + additional duties	7.4% + additional duties	6.5% + additional duties
610.65	3% ad val.	3%	3%	2.9%	2.8%	2.8%	2.7%	2.6%	2.5%
610.66	5% ad val. + additional duties	5% + additional duties	5% + additional duties	4.8% + additional duties	4.6% + additional duties	4.4% + additional duties	4.1% + additional duties	3.9% + additional duties	3.7% + additional duties
610.70	8% ad val.	8%	8%	7.5%	7%	6.6%	6.1%	5.6%	5.1%
610.71	10% ad val. + additional duties	10% + additional duties	10% + additional duties	9.3% + additional duties	8.6% + additional duties	7.9% + additional duties	7.2% + additional duties	6.5% + additional duties	5.8% + additional duties
610.74	11% ad val.	11%	11%	10.2%	9.4%	8.6%	7.8%	7%	6.2%
610.80	11% ad val.	11%	11%	10.2%	9.4%	8.6%	7.8%	7%	6.2%
610.81	Free	2/	2/	2/	2/	2/	2/	2/	2/

1/ The symbol "%" indicates percent ad valorem. The symbol "¢/" indicates per stated unit of quantity.

2/ Rate not modified in the Tokyo round of the Multilateral Trade Negotiation.

INDUSTRIAL DISTRIBUTORS INC.,
KEYSTONE WAUSAU PIPE & SUPPLY DIVISION,
Schofield, Wis., April 21, 1983.

Hon. SAM GIBBONS,
Chairman, House Ways and Means Subcommittee on Trade, Longworth House Office Building, Washington, D.C.

MR. GIBBONS: We request the following be made part of the hearing record for subject bill.

Keystone Wausau Pipe & Supply Division, Industrial Distributors, Inc., as an industrial pipe, valve, and fittings distributor selling to the contractor, manufacturer, and end user feel that those buying the product have a right to know the country of origin and the manufacturer of the parts. The amendment to section 304 of the Tariff Act of 1930, (19 U.S.C. 1304), as proposed under H.R. 1986 should be given strong support.

We as distributors, have offers coming at us from all directions. We know from past business experience that products, of approximately equal quality, (actually meeting, on a consistent basis, the standards empirically developed by the various associations to provide for meeting the quality needs of American industry), have an overall equality of price. Depending on the many various factors from productivity to quality control, only a few percent difference in cost may be seen.

In one product line alone, forged steel flanges, we can buy from an import source at a 36 percent price advantage over the best distributor cost offered by our domestic source, Ladish Company, for the same product.

I must tell you that with the best productivity on earth, such a price advantage is not possible. It costs something for the new material, it costs something for the energy, it certainly costs something for transportation from there to here.

Where then, are the price differences made up? Perhaps some in government subsidies, overt or covert. Another significant amount could be saved by paying less attention to quality.

Well, if we are going to export jobs, and import unemployment, lets make sure the purchaser knows he is doing that.

If our industrial standards, based on reputation, integrity, and trust, rather than enforceability, are to be casually stated rather than rigidly met, lets make sure the purchaser know he is doing that.

For the sake of all, make sure the country of origin is not removed from the various components until such time as it is in place for the End User.

We therefore suggest the act should be revised further to include the following important points:

1. Any product formed, forged or cast in a foreign country should have country of origin and manufacturer's name and/or trademarks included as part of the marking.

2. If identification is removed by any means, for any reason, before emplacement at the end user, the individual parts should be remarked to show the original marking identification information.

3. The end user should be defined as the person, agency, company or corporation utilizing the system or machinery in it's completed form, for the purpose it was intended. Until this point, the component part shall maintain identification per the above points one and two (1&2).

With the above points the end user will have traceability to the manufacturer. The product or system, and its component parts can then be reasonably evaluated based on the integrity of the manufacturer of the product or system and its component parts.

We strongly approve the House H.R. 1986, and suggest inclusion on the above points.

Respectfully,

WILLIAM A. STACK,
President.

LADISH CO.,
Cudahy, Wis., April 18, 1983.

Hon. SAM GIBBONS,
Chairman, House Ways and Means Subcommittee on Trade, Longworth House Office Building, Washington, D.C.

MR. GIBBONS: We request the following be made part of the hearing record for subject bill.

Ladish Co., as a domestic manufacturer of pipe fittings, feels the purchaser and end user have the right to know the country of origin. The amendment to Section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) as proposed under H.R. 1986 should be given strong support.

Ladish Co. has been producing quality pipe fittings for approximately a half a century and have achieved a reputation for quality. Since the downturn in economy the influx of foreign fittings has increased considerably. We as a producer wish to meet this competition head to head. The request for permanent marking does not cause an expense of any consequence over and above domestic manufacturer.

We are aware of a domestic manufacturer who imports products into Canada, then imports into the United States. These parts are identified with the trademark of the domestic manufacturer but not the far Eastern country that produced the finished part.

We also believe this act should be further revised to include the following two points:

1. Any fitting forged, formed or cast in a foreign country should have country of origin and the manufacturer's name and/or trademark included as part of the marking.

2. If identification is removed by grinding, machining or other mechanical means, the part should be remarked to show the original marking information.

With the above two points, the purchaser and or end user will have traceability to the major manufacturer. The product can then be evaluated based on the integrity of the major manufacturer.

As this act was prepared in 1930, fine of $5,000.00 is too small. Suggest revision to $50,000 or more.

We strongly approve Bill H.R. 1986 and suggest the inclusion of the above points.

Very truly yours,

R. B. STEELE,
Vice President, Industrial Products Division.

H.R. 1995

To suspend for a 2-year period the duty on the chemical commonly known as Flecainide acetate.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27 and May 10, 1983, the Administration testified that it had no objection to a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

We believe that the effective date of all bills that are not a continuation of current tariff treatment should be no sooner than fifteen days after enactment. Providing an effective date fifteen days after enactment will enable the U.S. Customs Service to notify its field offices and U.S. importers of changes made.

* * * * * * *

H.R. 1995—"To suspend for a two-year period the duty on the chemical commonly known as Flecainide acetate."

We have no objection to enactment of H.R. 1995. There are no domestic producers of Flecainide acetate. While there are approximately ten producers of other drugs used to treat heart arrhythmias, we understand that these drugs compete not in terms of price but in terms of performance and patient acceptance. A duty suspension will help to meet current demand for use in clinical trials in the United States, will encourage the availability of another alternative in the market, and may reduce costs to users. We understand that if there is favorable Food and Drug Administration action following the clinical trials, full production in the United States may occur at new manufacturing facilities planned in Alabama. The USITC estimates an annual revenue loss of $96,000 if the Food and Drug Administration approves imports of Flecainide acetate.

* * * * * * *

We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 1995, if enacted, would amend the Appendix to the Tariff Schedules of the United States (TSUS) to suspend for a 2-year period the duty on the chemical commonly known as Flecainide acetate.

DESCRIPTION AND USES

If approved by the Food and Drug Administration (FDA), flecainide acetate will be used as a cardiac depressant (anti-arrhythmic) agent. Currently, the FDA lists flecainide acetate as an investigatory new drug in the clinical trial stage.

According to the producer of flecainide acetate, Riker Laboratories, a subsidiary of the 3M Company located in England, the drug has been approved for use in West Germany, the first country to complete testing and approval of the drug. Flecainide acetate is now used in West Germany to treat disorders of heart rhythm (arrhythmias). The consequences of arrhythmias can range from discomfort to death.

About 30 to 40 anti-arrhythmic drugs are currently available. Since it is rarely possible to predict the patient response to a given drug of this type, it is often necessary to try various drugs, singly or in combination. In practice, the physician's

proper choice of a drug or drugs for the treatment of cardiac arrhythmias is largely empirical.

TARIFF TREATMENT

Flecainide acetate is classified under TSUS item 412.12 as a cardiovascular drug not provided for in the Chemical Appendix to the TSUS. Prior to July 1980, the column 1 rate of duty was 1.7 cents per pound plus 12.5 percent ad valorem.[1] Effective July 1, 1980, this rate was reduced to 8 percent ad valorem. The current column 1 rate of duty reflects the full U.S. Multilateral Trade Negotiations (MTN) concession rate implemented without staging for articles classifiable under TSUS item 412.12. The column 2 rate of duty is 7 cents per pound plus 65 percent ad valorem.[2]

Imports from designated beneficiary developing countries under TSUS item 412.12 are not eligible for duty-free entry under the Generalized System of Preferences (GSP).[3] There is no concession rate for products of LDDCs.[4]

STRUCTURE OF THE DOMESTIC INDUSTRY

Flecainide acetate is not produced in the United States. Several antiarrhythmic drugs are produced in the United States but, in view of the variable patient response to drugs of this type, to characterize domestically produced drugs as "like" or "directly competitive" with flecainide acetate could be inaccurate.

DOMESTIC PRODUCTION

Flecainide acetate is not produced in the United States, nor has it been produced in the United States during the last 5 years.

U.S. IMPORTS

Domestic imports of flecainide acetate are, at present, negligible because the drug has not been approved for use in the United States. When FDA approval is obtained, the following firm will import flecainide acetate from the United Kingdom: 3M Company, 3M Center, Saint Paul, Minnesota 55101.

U.S. EXPORTS

Exports of flecainide acetate from the United States are nil.

APPARENT U.S. CONSUMPTION

As of April 30, 1983, flecainide acetate had not been approved by FDA for use in the United States, except for small quantities used in the clinical trials required in the approval process. Domestic consumption is, therefore, negligible.

POTENTIAL ANNUAL LOSS OF REVENUE

Since current imports of flecainide acetate are negligible, immediate loss of revenue upon enactment of this legislation would also be negligible. Any estimate of future loss of revenue is necessarily hypothetical. The prospective importer projects

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[1] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

[2] The rates of duty in rate of duty column number 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[3] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

[4] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column numbered 1 applies.

annual imports valued at about $1.2 million upon FDA approval. If so, the annual loss of revenue would be about $96,000.

TECHNICAL COMMENTS

Flecainide acetate is listed in the latest United State Adopted Names (USAN) dictionary of U.S. nonproprietary names for drugs. Therefore, the drug is uniquely identified by the name flecainide acetate, and the phrase "The chemical commonly known as" is unnecessary and should be deleted from the title.

Likewise, use of the chemical name "2,5-bis(2,2,2-trifluoroethoxy)-N-(2-piperidylmethyl) benzamide monoacetate" in the article description is not more specific than the name "flecainide acetate". Use of this lengthy chemical name may be confusing because there are several chemical names which are used for flecainide acetate. The Committee may wish to amend the article description to read as follows:

"Flecainide acetate (provided for in item 412.12, part 1C, schedule 4). . . . ."

In addition, the "Effective Period" column should be amended to reflect the usual TSUS practice of identifying a specific date; e.g., "On or before 6/30/86".

STATEMENT OF RONALD O. BAUKOL, GENERAL MANAGER OF RIKER LABORATORIES, INC., MINNESOTA MINING & MANUFACTURING CO.

Mr. Chairman and Members of the Committee, we appreciate the opportunity to offer testimony on H.R. 1995, a Bill to suspend for a two-year period the duty on the Chemical commonly known as Flecainide Acetate. We believe that you consideration will show this measure to be meritorious.

The duty problem is addressed by H.R. 1995 affects the manufacture of Flecainide Acetate, a major new anti-arrhythmic drug developed by Riker Laboratories, Inc., a subsidiary of 3M.

H.R. 1995 would temporarily suspend the eight percent Duty Tax on Flecainide Acetate for two years. It would achieve this objective by amending subpart B of Part I of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) by adding the following new item:

Item	Column 1	Period
2,5-bis(2,2,2-trifluoroethoxy)-N-(2-piperidylmethyl) Benzamide monoacetate (provided for in Item 412.12, Part iC, Schedule 4)	Free	2 years.

Flecainide Acetate (brand name "Tambocor") is a cardiovascular drug with the chemical abstract name 2,5-bis(2,2-trifluoroethoxy)-N-(2-piperidylmethyl) benzamide monoacetate. It is used to treat disorders of heart rhythm (arrhythmias) that affect thousands of heart patients. Clinical tests demonstrate that Flecainide Acetate controls arrhythmias more effectively and as safely as other anti-arrhythmic drugs. Recommended dosage is twice a day, compared with three to four times a day for most other anti-arrhythmic drugs.

Flecainide Acetate was discovered by Riker/3M in 1972. Clinical studies began in 1975. It was approved for use in West Germany in July 1982 and introduced for sale there in September. Subsequently, Flecainide has been approved for use in the United Kingdom, France and Argentina. An application for approval was submitted to the U.S. Food and Drug Administration in December 1982 and it is under review by the Agency at the present time.

The Flecainide Acetate raw drug manufacturing process consists of five discrete steps. Each step involves converting a unique chemical entity into a related but also unique chemical entity. Currently, the raw drug is produced by a joint effort between our Riker/3M facilities in California and Loughborough, England. Riker performs the first four steps of this process in California. The result is a chemical intermediate (stage four) that is sent to England, where it is converted into a unique chemical entity called Flecainide Acetate. The specific process and equipment (hydrogenation) required to complete the fifth step are not readily available to Riker in the United States.

Recently, Riker/3M developed a new, less costly four-step process of manufacturing Flecainide Acetate. Plans are now underway to equip a manufacturing facility in Alabama for large scale production of Flecainide Acetate. We anticipate it will take one year or more for this new facility to become fully operational, and for the manufacturing of Flecainide Acetate to occur entirely in the United States. After

that, there would be no need for final manufacture in England and the Duty Tax problem would be eliminated.

U.S. Customs decisions have held that where a process performed abroad results in a new or commercially different article with new and different characteristics and uses, and/or where the foreign process constitutes a continued part of the manufacturing process begun in the United States, it is dutiable on the full value upon return. The Duty Tax on the full value of the U.S. processed intermediate exported for further processing and returned as Flecainide Acetate would be eight percent (Ad Valorem). This is a counter productive tax because the value of the U.S. processed intermediate exceeds 80 percent of the value of the finished product.

The modifications to subpart B of Part I of the Tariff schedules contained in H.R. 1995 would resolve these difficulties.

Your consideration of this matter is greatly appreciated and its approval respectfully requested.

H.R. 2042

To amend the Tariff Schedules of the United States to provide for a lower rate of duty for certain fish netting and fish nets.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on H.R. 2042, a bill: "To reduce tariffs on imported fish netting and nets.".

Enactment of H.R. 2042 would require immediate implementation of the remaining part of the 60 percent tariff reduction negotiated in the MTN for Tariff Schedules of the United States (TSUS) item 355.45, fish netting and fishing nets (including sections thereof), of textile materials other than cotton or other vegetable fibers. Man-made fibers account for most of the yarn or twine used in making the netting and nets imported under TSUS item 355.45.

The tariff rate on item 355.45 was 25¢ per lb. + 32.5 percent ad valorem (approximately 40 percent ad valorem equivalent) prior to the MTN. The January 1, 1983 rate is 18¢/lb. + 28.6 percent ad valorem. The 60 percent tariff reduction negotiated on this item in the MTN is scheduled to be staged over several years and to reach 17 percent ad valorem on January 1, 1989. There is no LDDC rate for item 355.45. This item is not eligible for GSP treatment. The column 2 (statutory) duty is not affected by this bill.

Since H.R. 2042 would have the effect of implementing the final MTN rate for TSUS item 355.45, the provisions of this bill also would seem to preclude exercising the "snapback" clause attached to U.S. tariff concessions on textile products. This clause was an essential factor in U.S. agreement to reduce tariffs on textile products. The "snapback" clause provides for a return to pre-MTN rates for disignated textile products if the MEA ceases to be in effect with respect to the United States before the total reduction in the rate of duty for such item has become effective.

The Administration opposes enactment of H.R. 2042.

The Department sympathizes with the concerns of the domestic fishing industry regarding the costs imposed in purchasing imported fish nets and netting as a result of the current tariff structure on these items. It is for this reason that the tariff on these items was reduced during the Multilateral Trade Negotiations. The staging provided for in the final MTN settlement was designed to give the fish net and netting industry the opportunity to adjust to import competition before the 60 percent tariff reduction was completed. The domestic industry is moving quickly to adjust to the changed competitive position through the development of new and improved products. A rapid reduction in prices of foreign imports would materially retard this effort while providing only short term benefits to the domestic fishing industry.

The U.S. International Trade Commission estimates annual revenue loss as $1,248,665 in the first year, declining to zero in 1989 when the full tariff cut was originally scheduled to take effect. Enactment of H.R. 2042 would have no impact on the revenues or administrative costs of this Department.

We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

BACKGROUND

H.R. 2042, if enacted, would provide for a lower rate of duty for certain fish netting and fishing nets provided for in item 355.45, subpart C, part 4, schedule 3, of the Tariff Schedules of the United States (TSUS), by striking out the 1983 rate of duty prescribed in rate column numbered one ("18¢ per lb.+28.6% ad val.") and in-

serting in lieu thereof "17% ad val." [1] This latter rate would be equivalent to the final staged reduction pursuant to to the most recent Multilateral Trade Negotiations (MTN) which would otherwise become effective on January 1, 1989.

DESCRIPTION AND USES

TSUS item 355.45 includes fish netting and fishing nets (including sections thereof), of textile materials other than cotton or other vegetable fibers. Man-made fibers account for most of the yarn or twine used in making the netting and nets imported under TSUS item 355.45. Such articles constructed in chief value of cotton (item 355.35) or in chief value of other vegetable fibers, except cotton (items 355.40 and 355.42) are not affected by this legislation.

Fish netting is usually referred to as "webbing" by fishermen, to distinguish it from rigged nets which are ready to be used in actual fishing operations. Most fish netting produced in the United States is made primarily of yarn or twine of man-made fibers which is knitted or knotted together by machine, forming piece goods of uniform meshes. The size of the twine and of the mesh depends on the particular use for which the netting is intended. Nets of fine twine and small meshes are used to catch smaller fish.

The construction of fishing nets involves the cutting and piecing together of netting material and the attachment of floats, sinkers, and ropes. There are at least three important categories of fishing nets—trawl, seine, and gill. Trawl nets are used to catch those species of fish living on or very near the sea bottom, such as shrimp and flounder. These nets are large and bag shaped, and are towed along the bottom of the sea by a vessel. As the net is drawn forward, pressure of the water against the boards attached to each side of the mouth acts to keep the net open and thus permit the fish to be swept in.

Seine nets are large and are usually supported by floats at the water's surface and weighted at the bottom. These nets are cast into a circle around a school of fish (such as tuna and herring) by the fishing vessel. The net is closed, entrapping the fish when the purse line, which runs through rings attached by rope bridles at varying intervals to the lead line, is pulled. With the seine completely closed, the net is raised onto the vessel's deck by a hoist which is attached to the lead line of the net.

Gill nets are designed to catch fish by the method known as gilling, as opposed to the entrapping methods discussed above. Such nets are designed so that the mesh is of sufficient size to admit only the head of the fish. When the fish swim into the net, the net slips under and back of the gills, and when the fish attempt to escape, they become entangled in the mesh. Gill nets are usually staked or anchored in place, although in some areas drift nets are used. The latter are allowed to drift from the stern of the boat, after being rigged with a cork line and set on the water's surface. The nets within these three classes (trawl, seine, and gill) differ greatly, depending on the locality and the type of fish to be taken. Different types of vessels are also used. Nets used in commercial fishing vary in length and may be as long as 1,800 feet.

TARIFF TREATMENT

Fish netting and fishing nets are currently dutiable in the TSUS as follows:

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[1] There have been several recent legislative proposals affecting the tariff status of fish netting. For example, H.R. 2048, 95th Cong., 1st sess. (Jan. 19, 1977); H.R. 1211, 96th Cong., 1st sess. (Jan. 22, 1979); H.R. 2485, 96th Cong., 1st sess. (Feb. 28, 1979); section 1622(f) (amending section 466 of the Tariff Act of 1930) of H.R. 111 (Panama Canal Act of 1979), 96th Cong., 1st sess. [See H. Rept. No. 96–98 (pt. I) 125–127 (Apr. 23, 1979)]; H.R. 6571 (amending section 466 of the Tariff Act of 1930), 96th Cong., 2d sess. (Feb. 22, 1980) [enacted as section 115, Pub. L. No. 96–609; effective retroactively from Oct. 1, 1979 through Jan. 1, 1982]; H.R. 4002, 97th Cong., 1st sess. (June 23, 1981), and S. 1565, 97th Cong., 1st sess. (July 31, 1981).

TSUS item No.	Brief description	Rate of duty	
		Col. 1	Col. 2
355.35	Of cotton	14.3% ad val.	40% ad val.
	Of vegetable fibers, except cotton:		
355.40	Of abaca, for use in otter-trawl fishing	Free	Free
355.42	Other	9.4% ad val.	45% ad val.
355.45	Other 1/	18¢ per lb. + 28.6% ad val.	82% ad val.

1/ TSUS item 355.45 is annotated for statistical purposes as follows:

	Of man-made fibers:
355.4520	Salmon gill netting, of nylon
355.4530	Other
355.4590	Other

The current column 1 rate of duty[2] for TSUS item 355.45 is 18 cents per pound plus 28.6 percent ad valorem. The column 2 rate of duty[3] is 82 percent ad valorem. Such imports are not eligible for benefits of the Generalized System of Preferences (GSP).[4] The former rate of 25 cents per pound plus 32.5 percent ad valorem remained unchanged between August 31, 1963 and December 31, 1981. The current column 1 rate of duty became effective on January 1, 1983, as a result of negotiations concluded in the Tokyo round of the Multilateral Trade Negotiations (MTN). The staged reductions in the rate of duty under the MTN are shown in the following tabulation:

Year	Rates of duty effective with respect to articles entered on or after January 1--
1982	21¢/lb. + 30.6% ad val.
1983	18¢/lb. + 28.6% ad val.
1984	15¢/lb. + 26.7% ad val.
1985	12¢/lb. + 24.8% ad val.
1986	9¢/lb. + 22.8% ad val.
1987	6¢/lb. + 20.9% ad val.
1988	3¢/lb. + 18.9% ad val.
1989	17% ad val.

Concessions granted on most textile products are conditional. Section 504 of the Trade Agreements Act of 1979 would restore tariffs on textile products, including fish netting and fishing net, subject to the Multifiber Arrangement (MFA), to the

[2] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries which are granted preferential tariff treatment under the GSP or under the "LDDC" rate of duty column.

[3] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[4] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

levels of January 1, 1975, if the MFA does not continue in effect or a suitable arrangement is not implemented during the period of the staged tariff reductions; i.e., until January 1, 1989, for item 355.45.

TSUS item 355.45 was annotated for statistical purposes effective January 1, 1981. This annotation (355.4520) separates salmon gill netting of nylon from other fish netting and fishing nets of man-made fibers. The ad valorem equivalent of the duty on netting reported in TSUS item 355.45, based on imports during 1982, was 36.3 percent.

Two bills on fish netting and fishing nets of man-made fibers—H.R. 4002 and S. 1565—were introduced in the House of Representatives and the Senate on June 23, 1981, and July 31, 1981, respectively. Both bills provided for an immediate reduction of the duty on fish netting and fishing nets (TSUS item 355.45) to the final staged rate of 17 percent ad valorem. H.R. 4002 was incorporated into H.R. 6867. This legislation passed the House but was not accepted by the Senate Finance Committee (September 28, 1982). S. 1565 was incorporated into H.R. 4566 (the 1982 Omnibus Tariff Act) which became Public Law 97-446 on January 12, 1983. However, the provision concerning duty reductions for fish netting was deleted during the conference on H.R. 4566.

The duty on fish netting and fishing nets purchased in foreign ports by U.S. fishing vessels during a specified period of departure from the United States is 50 percent ad valorem (19 U.S.C. 1466). Such purchases are also provided for in U.S. Customs Service regulations in chapter 1 of the Code of Federal Regulations (19 CFR 4.14). On meeting one of three statutory criteria, the owner or master of the vessel may obtain a remission of the duties paid where the purchases were made in a specified period (19 U.S.C. 1466(d)). Section 4.14 of the customs regulations provides specific standards for duty refunds, requiring proof that the transaction met all legal requirements for replacing such equipment [5] damaged at sea.

IMPORT RELIEF

On April 18, 1972, in investigation No. AA1921-85, the Commission determined that an industry in the United States was being injured within the meaning of the Antidumping Act, 1921, by reason of imports of fish netting of man-made fibers from Japan determined by the Secretary of Treasury to be sold or likely to be sold at less than fair value (LTFV),[6] [7] As a result of this determination, the Department of the Treasury issued a dumping order applicable to this merchandise on June 9, 1972.

On July 28, 1981, the Commission received a request to review its affirmative determination, filed on behalf of nine Seattle, Washington/Portland, Oregon area importers of salmon gill fish netting from Japan. The request, which was filed under section 751(b) of the Tariff Act of 1930, asked that the Commission retroactively modify its injury determination to exclude double knot salmon gill fish netting of man-made fibers, in light of changed circumstances. Importers alleged that significant production of salmon gill fish netting of man-made fiber in the United States had ceased by 1974.

On the basis of the request for review and all comments filed concerning the request, the Commission voted to institute investigation No. 751-TA-5 on October 14, 1981. The purpose of the investigation was to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, if the antidumping order regarding fish netting of man-made fibers from Japan were to be modified or revoked with respect to salmon gill fish netting of man-made fibers provided for in item 355.45 of the TSUS.

On March 31, 1982, the Commission determined that the establishment of an industry in the United States would be materially retarded, by reason of imports of salmon gill fish netting of man-made fibers from Japan covered by antidumping order T.D. 72-158, if the order were to be modified or revoked. The Commission's determination was based on the finding that, although domestic production of

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[5] "Fish nets and netting are considered vessel equipment and not vessel supplies". 19 CFR 4.15 (Fn. 28) (1982). Thus, such purchases in a foreign port are subject to duty under section 466 of the Tariff Act of 1930 (19 U.S.C. 1466). However, section 466 would be repealed by section 203 of S. 1038 (the Merchant Marine Act of 1983), introduced April 12, 1983, by Sen. Stevens (by request).

[6] 19 U.S.C. 160-171 (replaced by Tariff Act of 1930, secs. 731-740, effective January 1, 1980, 19 U.S.C. 1673-1673i).

[7] "Fish Nets and Netting of Man-made Fibers From Japan . . . ," investigation No. AA1921-85, TC Pub. 477 (1972).

salmon gill fish netting of man-made fibers was so insignificant that there was no established industry in the United States, Nylon Net Co. of Memphis, Tennessee, one of the largest domestic producers of fish netting, had made substantial investments in the development of a marketable salmon gill fish netting. Upon a review of the structure of the salmon gill fish netting market which includes lower cost and lower quality netting imported from Taiwan and Korea, the Commission judged that Nylon Net's market entry (which would be aimed toward the higher priced and higher quality end of the market) would be materially retarded, and perhaps frustrated entirely, by unrestrained less-than-fair-value sales of Japanese imports.

On November 24, 1982, the Commission requested comments to determine whether there were changed circumstances sufficient to authorize institution of a section 751 investigation. The Commission had received information that Nylon Net's nylon yarn supplier, Firestone Fibers & Textile Co., was ceasing production of nylon yarn at its Hopewell, Virginia plant. This information was significant because, in the first review investigation, the Commission relied on information concerning a joint project between Nylon Net and Firestone for the development of nylon yarn that would allow Nylon Net to produce netting that would be competitive with the Japanese imports. The Commission had noted that the absence of U.S. production of a yarn comparable in quality and specifications to the Japanese product had been the key element in the inability of the U.S. fish netting producers to compete successfully with imports of Japanese salmon gill fish netting. On the basis of the comments filed which indicated that Nylon Net had not secured an alternative source of nylon yarn, the Commission voted to institute investigation No. 751-TA-7 on January 25, 1983. The purpose of this investigation was to determine whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded if the present antidumping order were to be modified or revoked to exclude salmon gill fish netting of man-made fibers. Modification or revocation of the dumping order as to salmon gill fish netting would not affect the Commission's affirmative determination as to other forms of fish netting of man-made fibers from Japan. Notice of the institution of the investigation and of the public hearing to be held in connection therewith was published in the Federal Register on February 2, 1983 (48 F.R. 4746). On May 24, 1983, a Commission majority determined that an industry in the United States would be materially injured if the antidumping order regarding fish netting of man-made fibers from Japan were to be modified or revoked with respect to salmon gill fish netting of man-made fibers.

In contrast to the Commission's finding in Inv. No. 751-TA-5 that there was no established domestic industry, the Commission found that now there is an established domestic industry. This finding was based on the fact that one domestic producer which, at the time of the earlier investigation produced only an insignificant amount of gill fish netting, had since increased production significantly.

STRUCTURE OF THE DOMESTIC INDUSTRY

There are approximately 12 firms located in 10 states producing fish netting and fishing nets in the United States. Some of these firms have fewer than 10 employees while others have over 100. Total employment in the industry is estimated to be approximately 900 persons. In addition, numerous individual fishermen and small net shop operators purchase netting of both foreign and domestic origin and assemble their own nets.

Five of the industry's largest companies which account for approximately 75 percent of total estimated domestic production are: Nylon Net. Co., Memphis, Tenn.; FNT Industries, Inc., Minominee, Mich.; Bayside Net & Twine Co., Inc., Brownsville, Tex.; Hagin Firth & Sons Co., Willow Grove, Pa.; and Blue Mountain Industries, Blue Mountain, Ala.

Domestic producers have stated that they have both the technical capability and manufacturing capacity to produce the full range of fish netting and fishing nets imported into the United States, although admittedly at a given time certain netting may not be under actual production.

DOMESTIC SHIPMENTS

Estimated domestic shipments of fish netting and fishing nets by the dozen U.S. firms, increased annually from 3.9 million pounds in 1976 to 5.6 million pounds in 1979, then declined to 4.3 million pounds in 1982. The value increased from $11.8 million in 1977 to $16.7 million in 1979, then declined to $12.7 million in 1982 (table 1).

The decline in domestic shipments since 1980 was due primarily to economic conditions. Fuel prices and high interest rates caused many fishermen to cut expenses by reducing their purchases of new fish netting or fishing nets. Because of high fuel prices many fishermen did not stay at sea as long, therefore many nets did not receive as much wear resulting in a decrease in the need for replacements. Also, since most fish netting and fishing nets are purchased on credit and paid for after the catch is sold, many fishermen deferred the purchases of new netting and nets to avoid the higher interest rates.

U.S. IMPORTS

Imports of fish netting and fishing nets of textile materials, other than vegetable fibers (TSUS item 355.45), increased from 1.8 million pounds, valued at $6.3 million in 1978, to 2.1 million pounds, valued at $7.6 million in 1982. Man-made fiber fish netting and fishing nets accounted for about 99 percent of such imports. Japan has been the principal source of U.S. imports under TSUS item 355.45, supplying 36.9 percent based on quantity and 53.9 percent based on value of such imports in 1982 (table 2). Imports from sources subject to column 2 rates of duty have been nil.[8]

The market penetration of imports under TSUS item 355.45 increased from 28 percent of apparent domestic consumption in 1978 to 34.9 percent in 1982 (table 1).

Leading importers of fish netting and fishing nets (TSUS item 355.45) are Seattle Marine and Fishing Supply Company, Seattle, Washington; John Redden Net Company, Inc., Bellingham, Washington; Lummi Fishery Supplies, Inc., Bellingham, Washington; Nylon Net Company, Memphis, Tennessee; Jovanovich Supply Company, Seattle, Washington; and Trans Pacific Trading Inc., Seattle, Washington.

U.S. EXPORTS

Prior to 1978, export statistics of fish netting and fishing nets were not separately reported. Exports of fish netting and fishing nets of all types of textile materials were 227,000 pounds, valued at $404,000 in 1978. These exports have increased almost annually to 403,000 pounds, valued at $1.1 million in 1982. Colombia, Guyana, and Canada were the primary recipients of these exports in 1982. The bulk of these exports consist of fish netting of man-made fiber.

APPARENT U.S. CONSUMPTION

Apparent U.S. consumption of fish netting and fishing nets of types included in TSUS item 355.45 fluctuated irregularly from 6.6 million pounds in 1978 to 5.9 million pounds in 1982 (table 1).

Accordingly to industry sources the decline, after several years of increases, is due primarily to a dip in the fish catching cycle, which historically happens every three to five years. In addition, high fuel prices and high interest rates often influence the fishermen to spend more time repairing nets to cut expenses rather than replacing them. Domestic consumption in recent years consisted almost entirely of netting and nets of man-made fibers.

POTENTIAL ANNUAL LOSS OF REVENUE

Based on import data for 1982, the potential loss of revenue resulting from enactment of this legislation would be approximately as follows:

Year:	
1983	$1,248,665
1984	1,043,075
1985	837,485
1986	624,333
1987	418,742
1988	205,591
1989	0

The final MTN staged rate reduction will become effective in 1989 when it will be equal to the proposed rate of 17 percent ad valorem. The column 1 rate of duty will decline and, consequently, the potential loss of revenue will decline each year until 1989.

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[8] The Commission staff estimates that approximately 80 percent of the total imports of fish netting and fishing nets consists of fish netting; the remaining 20 percent consist of finished fishing nets. Nearly all the imports from Japan, the largest supplier, are of fish netting.

TECHNICAL COMMENTS

If the Committee desires to retain the President's authority, under section 125 of the Trade Act of 1974, to withdraw, suspend, or modify the application of trade agreement obligations of benefit to a foreign country or instrumentality, with respect to TSUS item 355.45, the additional language on page 14 is suggested.[9]

(b) For purposes of the Trade Act of 1974, the amendments made by this section (not including the rates of duty in column numbered 2 of the Tariff Schedules of the United States) shall be considered to be trade agreement obligations entered into and proclaimed under the Trade Act of 1974 of benefit to foreign countries of instrumentalities.

Thus, the President could terminate, suspend, or modify this amendment to the TSUS, pursuant to section 125, if a country or instrumentality benefiting from the immediate reduction in the staged rate terminates, suspends, or withdraws any trade agreement obligation of benefit to the United States without providing adequate compensation.

[9] See, Pub. L. No. 96–609, sec. 117(d); effective December 28, 1980, for similar language.

Table 1.--Estimated U.S. consumption of fish netting and fishing nets of textile materials, other than vegetable fibers (TSUS item 355.45) for the period 1978-82

Period	Producers' shipments 1/	Exports 2/	Imports	Apparent consumption	Ratio of imports to consumption (percent)
	Quantity (in 1,000 pounds)				
1978	4,950	227	1,833	6,556	28.0
1979	5,567	199	2,321	7,689	30.2
1980	4,419	271	2,074	6,222	33.3
1981	4,365	359	1,662	5,668	29.3
1982	4,258	403	2,064	5,919	34.9
	Value (1,000 dollars)				
1978	13,582	404	6,336	19,514	32.5
1979	16,690	476	9,244	25,458	36.3
1980	14,301	774	7,365	20,892	35.3
1981	13,760	834	8,018	20,944	38.3
1982	12,670	1,086	7,561	19,145	39.5

1/ Includes netting of man-made fibers only.
2/ Includes netting of all types of textile materials.

Source: Production data for 1978-82 estimated from data obtained by the American Netting Manufacturers Organization. Imports and exports compiled from official statistics of the U.S. Department of Commerce.

Table 2.--U.S. imports for consumption of fish netting and fishing nets, of textile materials, other than vegetable fibers (TSUS item 355.45), by principal sources, 1978-82

Country	1978 1/	1979 1/	1980 1/	1981	1982
	Quantity (in 1,000 pounds)				
Japan	1,198	1,611	1,127	848	762
Korean Republic	202	179	298	182	257
Canada	93	130	127	144	144
China T	131	80	122	282	521
All other	198	315	373	206	380
Total	1,822	2,315	2,047	1,662	2,064
	Value (1,000 dollars)				
Japan	4,956	7,455	4,750	3,966	4,073
Korean Republic	374	389	649	428	567
Canada	201	401	365	430	514
China T	287	222	329	844	1,425
All other	484	758	1,144	2,350	982
Total	6,302	9,225	7,237	8,018	7,561

1/ Includes statistics of man-made fiber fish netting and fishing nets only, which account for approximately 99 percent of imports under TSUS item 355.45.

Source: Compiled from official statistics of the U.S. Department of Commerce.

[Western Union Mailgram]

FIRST WASHINGTON NET FACTORY INC.,
Blaine, Wash., May 6, 1983.

Reference bill S. 759 tariff reduction on netting.

JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MR. SALMON: As matters now stand, tariffs, are already being reduced every year in gradual implementation until a level of 17 percent is reached in 1989.

We think that this is the fairest approach possible to all concerned with the chance of survival for the netting industry and therefore should be left that way.

Bill S. 759 proposing now immediate reduction to 17 percent as a destructive concept. We have no doubt that our domestic netting industry would not survive. Survival already is in doubt as some domestic manufacturers, in consequence of foreign manufacturers dumping netting into the States, are selling below costs. All is in great disarray.

Lowering of tariffs now to 17 percent in addition to above problems will make the whole position untenable and soon we will land up without domestic netting manufactuers and this with possible great detriment to the fishing industry and the country at times of impaired supplies.

CARL KORING, *President.*

HOUSE OF REPRESENTATIVES,
Washington, D.C., May 10, 1983.

Hon. SAM GIBBONS,
Chairman, House Ways and Means Subcommittee on Trade, Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: My constituent, Don Whitlow, Vice President of Blue Mountain Industries, Inc., Blue Mountain, Alabama, a domestic manufacturer of fish netting will testify today before your Trade Subcommittee in opposition to H.R. 2042, a bill which would immediately reduce the import duty on fish netting to 17 percent ad valorem.

The U.S. fish netting industry is already in precarious economic condition and imports have taken over one-third of the U.S. market with tariff rates continuing to decrease yearly.

Mr. Chairman, to chop the import duty in half so drastically would be economically disastrous for the U.S. fish netting industry where profits are already less than four percent. This legislation would overturn previously negotiated staged reductions and I would be most appreciative if you would make my letter of opposition to H.R. 2042 a part of the hearings on this legislation.

With best wishes, I am,
Sincerely,

BILL NICHOLS, M.C.

NORTH PACIFIC FISHING VESSEL OWNERS' ASSOCIATION
Seattle, Wash., April 18, 1983.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade,
House Ways and Means Committee, Washington, D.C.

DEAR CHAIRMAN GIBBONS: On behalf of the North Pacific Fishing Vessel Owners' Association, I am writing to comment on H.R. 2042, a bill which would lower the tariff for certain fish netting and fish nets. The Association strongly urges that this bill be enacted into law.

The Association represents the owners of the majority of large vessels (87' to 160') which harvest king crab and tanner crab in the Bering Sea. In addition, many of our members' vessels are now pioneering a United States bottomfish fishery in the waters off Alaska, a fishery which holds much economic promise for reducing our balance of trade deficit.

As you are aware, the development of any new industry is fraught with experimentation. During the embryonic stages, costs run high as the participants try new ways to increase their productivity and their operating efficiency.

Development of the U.S. bottomfish fishery off Alaska has proceeded in much the same manner. There has, however, been a very significant exception to the

"normal" development process: most of the markets for our fishermen's catch have been "over-the-side" joint ventures, whereby domestically harvested fish are delivered to foreign processing vessels at sea. As a result of drastic declines in harvests of king crab and tanner crab, many vessels are looking for an opportunity to harvest bottomfish; with so many vessels competing for the few available markets, the price being paid to fishermen is extremely low. Thus, during development of this fishery, profit margins, if they exist at all, are extremely small.

The vessels operating in this fishery use trawl nets which cost in excess of $20,000. Since nets may be constructed of foreign-made materials or built completely overseas, even a small reduction in the tariff on the nets or materials will mean a significant savings to fishermen during the development stages of this fishery. And, as I am sure you are aware, the establishment of a domestic bottomfish fishery in the waters off Alaska was designated as a national priority by Congress in the Magnuson Fishery Conservation & Management Act.

The Association wishes to emphasize that enactment of H.R. 2042 will not just benefit our fleet, but fishermen throughout the entire United States who are compelled to go abroad for nets and netting. When President Reagan issued his proclamation establishing an Exclusive Economic Zone off our shores, this proclamation was accompanied by his statement that "The Proclamation also reinforces this government's policy of promoting the United States fishing industry.".

Adoption of H.R. 2042 will be a step toward revitalizing the fishing industry, as well as an opportunity for the Congress and the Administration to work together in promoting the United States fishing industry.

The Association thanks you for this opportunity to present its views.

Sincerely,

RICHARD J. GOLDSMITH,
Executive Director.

STATEMENT OF ELDON V. C. GREENBERG, COUNSEL, THE SOUTHEASTERN FISHERIES ASSOCIATION, INC.

The Southeastern Fisheries Association, Inc. ("SFA") wishes to express its strong support for H.R. 2042. H.R. 2042, currently pending before the Subcommittee, would reduce the duty rate on fish netting and fish nets made of synthetic material (TSUS 355.45) from its current effective rate of 34% to 17%. Passage of this legislation would be of great benefit to the commercial fishing industry in the southeastern United States.

SFA, which is headquartered in Tallahassee, Florida, is the largest commercial fisheries trade association in the southeastern United States. It has more than four hundred members from all sectors of the commercial fishing industry from North Carolina to Texas. SFA believes that passage of H.R. 2042 would significantly reduce industry costs and thereby increase the overall efficiency of our fishing operations.

Netting is an important component of the cost of any fishing operation. $20,000,000–$25,000,000 is spent annually for netting, almost one-third of which is imported. Costs for imports are approximately $10,000,000 per year. Additionally, the industry uses a wide variety of nets and, in many cases, imported products are the only ones available for use. Finally, in other cases, the imported product is often of a higher quality, using lighter material with superior stretching and assembling characeristics, than the domestically manufactured net. Both the shrimp and menhaden fisheries in the Southeast are considerably dependent on foreign nets. The burden of the tariff rate on the industry in our region is thus heavy.

There is currently a trade deficit of almost $3,000,000,000 a year in fish and fish products. SFA beleives that the industry in this country, and particularly the industry in the southeast, can contribute substantially to reducing this deficit. The potential for development is enormous. If only ⅛th of the underutilized resources of the Gulf could be harvested, for example, this could generate revenues (ex-vessel) of $150,000,000 per year and create 11,000 jobs. But for the industry to be competitive and for development to take place, it is essential to reduce unnecessary cost constraints, such as those associated with the excessive tariff on imported nets and netting.

In sum, H.R. 2042 is necessary and sensible legislation. If enacted, it would save individual fishermen several thousand dollars annually for purchase and repair and greatly assist the industry in achieving its potential. H.R. 2042 deserves the full support of Congress.

Thank you for the opportunity to present our views.

STATEMENT OF HON. GERRY E. STUDDS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

Mr. Chairman, I appreciate this opportunity to testify before your Subcommittee concerning H.R. 2042, a bill I have introduced that would accelerate already agreed-upon reductions of the tariffs on certain foreign fish nets and netting. I had the privilege of testifying on this matter before your Subcommittee last year and was extremely pleased that the bill was reported out of the Ways and Means Committee and was approved by the full house as part of the miscellaneous tariff bill. Although the measure was also approved by the Senate, differences between the two versions could not be worked out during the short time available at the end of the last session and this important measure was, unfortunately, set aside.

Now is the time, I believe, to resurrect it and once again move forward to provide our commercial fishermen with badly needed relief from exorbitant tariffs on an essential part of their business operation. In New Bedford, a typical fisherman would pay approximately $15,000 on nets and the duty on these would be $5,445. Under the terms of the agreement reached in the multi-national trade negotiations, the current tariff (18¢/lb. and 28.6% ad valorem with an effective rate of 36.3% ad valorem) will be gradually reduced to 17.5% ad valorem by the year 1989. There is no compelling reason, however, that this reduction should be so slow-paced and gradual and that our fishermen should not gain immediate relief from the high tariffs.

Our domestic fisherman is being forced to compete with highly subsidized foreign fleets whose products generally enter our markets duty free and whose fishermen pay substantially lower tariffs for the foreign nets. For example, Canadian fishermen pay no duty on these nets. This discrepancy further discriminates against the domestic fisherman and contributes to the fisheries deficit that now exceeds $3 billion.

Quite simply, domestic manufacturers do not produce the high quality synthetic nets required by our fishermen. This is clearly evidenced by the realization that the high tariffs notwithstanding, foreign nets still account for about one third of the nets used by the domestic fishing industry.

The acceleration of the tariff reductions proposed in my bill would greatly aid the U.S. fishing industry—plagued by rising costs and subsidized foreign fish products—while having a minor impact on the domestic textile industry.

This legislation does not propose to provide any new tariff cut to foreign net suppliers, but rather only seeks to accelerate already approved reductions in existing tariffs. Its goals and purposes are in keeping with the Administration's trade policy which has sought to open world markets by reducing the number of barriers to international trade. Accordingly, I urge your support of this important legislation that will make the already exceedingly difficult position of the domestic fisherman a little bit easier.

H.R. 2113

To amend the Agricultural Adjustment Act to require that imports of fresh ginger root meet all the requirements imposed on domestic fresh ginger root.

No reports or comments were received on this bill.

H.R. 2158

To increase the column 1 rate of duty on melamine.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27, 1983, the Administration testified that it objected to enactment of a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

* * * * * * *

H.R. 1318—"To restrict the importation of copper, copper bearing ores and materials, copper alloys and their so-called basic shapes and forms;"

H.R. 1319—"To restrict the importation of iron ore and steel mill products;" and

H.R. 2158—"To restrict the column 1 rate of duty on melamine."

We object to enactment of H.R. 1318, H.R. 1319, and H.R. 2158. Congress has provided administrative remedies in the Trade Act of 1974 for situations in which a domestic industry believes it is experiencing serious import injury or threat thereof. We believe these procedures, which involve a thorough investigation by the U.S. International Trade Commission, are the appropriate recourse for the industries affected by H.R. 1318, H.R. 1319, and H.R. 2158.

Tariffs on these products have been subject to concessions made by the United States under the General Agreement on Tariffs and Trade (GATT) and are bound against increase. Enactment of these bills would increase duties on these products contrary to U.S. obligations under the GATT. Any increase inthe duties on these products would render this country subject to claim for compensation or to retaliation by affected countries thus disadvantaging other U.S. industries. We believe it is inappropriate to jeopardize our trading interests in situations where relief has not been found to be warranted through established administrative procedurs. Enactment of H.R. 1318, H.R. 1319, and H.R. 2158 would result in an increase in revenues to the United States.

* * * * * * *

We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 2158, if enacted, would amend subpart D of part 2 of Schedule 4 of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) by deleting item 425.10 and establishing two new items for melamine (proposed item 425.10), and other (proposed item 425.11) in lieu thereof. The effect of this change is to raise the column 1

rate of duty [1] for imports of melamine from the 1983 rate of 4.3 percent to 9.2 percent ad valorem. The rate of duty for least developed developing countries (LDDC) [2] would remain at 3.5 percent ad valorem, and the column 2 rate of duty [3] would remain at 25 percent ad valorem.

The column 1 rate of duty for imports of cyanuric chloride and other compounds containing a triazine ring in proposed item 425.11 would be increased from the 1983 rate of 4.3 percent to 4.6 percent ad valorem.

DESCRIPTION AND USES

Melamine is a finely-divided white material, usually formed by heating dicyandiamide under pressure. Virtually all melamine produced in the United States and abroad is consumed in the manufacture of melamine-formaldehyde resins.

Estimated U.S. consumption of melamine-formaldehyde resins in 1981, by end uses is as follows: high pressure laminates, 29 percent of the total; molding compounds, 26 percent; surface coatings, 25 percent; paper treating and paper coating, 5 percent; and other (including adhesives), 10 percent. High pressure laminates are typically used in counter tops and furniture panels; a common trade name for this type of laminate is Formica. Nearly all molding compounds made from melamine are used in the production of durable dinnerware, while surface coatings are used on a wide variety of materials to enhance water repellancy and resistance to wear.

TARIFF TREATMENT

Melamine is currently classified under TSUS item 425.10—cyanuric chloride, melamine, and other compounds containing a triazine ring—with a column 1 rate of duty of 4.3 percent ad valorem, and LDDC rate of duty of 3.5 percent ad valorem, and a column 2 rate of duty of 25 percent ad valorem. The staged column 1 rate (in percent ad valorem) for this item resulting from the Tokyo round of Multilateral Trade Negotiations (MTN) are as follows: 1980=4.8%; 1981=4.6%; 1982=4.4%; 1983=4.3%; 1984=4.1%; 1985=3.9%; 1986=3.7%; 1987=3.5%. The pre-MTN rate was 5% ad valorem. These compounds are presently eligible for duty-free treatment under the Generalized System of Preferences.[4]

IMPORT RELIEF

On January 7, 1980, the U.S. International Trade Commission received notification from the Department of Commerce that, as of January 1, 1980, the Treasury Department had made preliminary affirmative determinations, but no final determinations, with regard to melamine imported from Austria and Italy.[5] Consequently, the Commission on January 8, 1980, instituted investigation Nos. 731-TA-13 (Final) and 731-TA-14 (Final) pursuant to section 735 of the Tariff Act of 1930, as added by Title I of the Trade Agreements Act of 1979, to determine whether an industry is materially injured, or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of melamine in crystal form, provided for in item 425.10 of the Tariff Schedules of the

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[1] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatement. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

[2] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnot 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column numbered 1 applies.

[3] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[4] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

[5] On April 25, 1980, Commerce withdrew its initial determination of sales at less than fair value of imports from the Netherlands, thus excluding imports from that country from the Commission's investigation.

United States, from Austria and Italy, which are being, or are likely to be, sold at less than fair value. The Commission determined that the domestic industry had not suffered material injury or the threat thereof, with the result that these investigations were terminated.

The U.S. International Trade Commission made a negative determination on October 28, 1982, which had the effect of terminating an investigation at the Department of Commerce on allegedly dumped imports of melamine from Brazil. The Commission determined, under section 733(a) of the Tariff Act of 1930, that there was no reasonable indication that an industry [6] in the United States was materially injured, or threatened with material injury, or that the establishment of an industry was materially retarded, by reason of imports of melamine from Brazil allegedly sold at less than fair value (LTFV). (Investigation No. 731-TA-107 (Prelim.); USITC Pub. No. 1303; October 1982).

STRUCTURE OF THE DOMESTIC INDUSTRY

Melamine is produced by American Cyanamid in Fortier, La., and Melamine Chemical Inc., a 50-50 joint venture of First Mississippi Corp. and Ashland Oil, in Donaldsonville, La.

American Cyanamid Co. is a large horizontally diversified and vertically integrated chemical company. Melamine Chemicals Inc. produces melamine as its sole product. Approximately 68 percent of the production of melamine was consumed in captive uses during 1976-78. The percentage is not believed to have changed significantly during 1979-81.[7] Data for 1982 are not available.

DOMESTIC PRODUCTION

U.S. production of melamine was 122.9 million pounds, valued at an estimated $44.6 million in 1977, and 113.6 million pounds, valued at an estimated $41.1 million in 1978. The industry data for subsequent years is considered confidential because of the limited number of domestic producers.

U.S. IMPORTS

U.S. imports of melamine during 1977-82 were as follows:

[Dollars in millions]

	Quantity (million pounds)	Value
Year:		
1978	26.9	$8.3
1979	20.7	7.8
1980	13.7	5.6
1981	29.4	12.1
1982	21.6	8.6

Source: Compiled from official statistics of the U.S. Department of Commerce.

The principal sources of U.S. imports during 1982 were the Netherlands, Brazil, Austria, Kuwait, and West Germany, as follows:

[6] The Commission's opinion noted that, since its determination of the "like" product in terms of characteristics and uses "is not affected by distinguishing between captive and non-captive sales", the "industry" definition would consist "of all production by the two domestic producers". However, the opinion further noted that "in assessing the injury question, we have considered the impact of the alleged LTFV imports on both the overall market and, where possible, on the merchant market". USITC Pub. No. 1303 at 4.

[7] Production data for 1979, 1980, and 1981 is considered confidential due to the limited number of domestic producers.

[Dollars in millions]

	Quantity (million pounds)	Value
Source		
Netherlands	11.1	$4.8
Brazil	4.2	1.4
Austria	3.5	1.3
Kuwait	1.2	0.4
West Germany	0.7	0.4
All other	0.9	0.3
Total	21.6	8.6

Source: Compiled from official statistics of the U.S. Department of Commerce.

No imports were supplied by countries subject to the column 2 rate of duty.

U.S. EXPORTS AND APPARENT U.S. CONSUMPTION

Data concerning U.S. exports are not available. Because domestic production levels are confidential, apparent domestic consumption levels cannot be presented.

POTENTIAL ANNUAL GAIN OF REVENUE

If imports of melamine remain at 1982 levels, the potential annual gain in revenue resulting from enactment of this legislation would be $340,000.[8]

GATT CONSIDERATIONS

This legislation would have the effect of unilaterally increasing the column 1 rate of duty on melamine which has been bound in previous international agreements. This action could thus result in claims for compensation by contracting parties under the General Agreement on Tariffs and Trade (GATT) which are "principal suppliers" and which ". . . consider that any benefit accruing . . . directly or indirectly under this Agreement is being nullified or impaired . . . as the result of . . . the failure of [the United States] to carry out its obligations udner this Agreement . . . ." (Article XXIII:1)

TECHNICAL COMMENTS

Effective January 1, 1983, the column 1 rate of duty on cyanuric chloride, melamine, and other compounds containing a triazine ring was reduced from 4.4 percent ad valorem to 4.3 percent ad valorem. It is suggested that the column 1 rate of duty "4.6% ad val." appearing after line 6, page 1 of the legislation be changed to "4.3% ad val." in order to maintain the tariff concession granted in the Tokyo round of MTN for other compounds containing a triazine ring (proposed item 425.11). The material appearing after line 6 should be amended to substitute "containing" for "having" in the article description column.

The legislation makes no provision for staging the proposed column 1 rates (for items 425.10 and 425.11) down to the proposed LDDC rates (i.e., the final MTN concession rates) for these two items. The Committee may wish to add staging language similar to that in subsection (b) of section 105 (relating to button blanks of casein) of H.R. 6867, 97th Congress, 2d Sess. (Union Cal. No. 519).

[8] The difference between the proposed duty and the actual duty assessed on 1982 import values.

AMERICAN HOECHST CORP.,
Somerville, N.J., May 6, 1983.

Re hearings on miscellaneous tariff and trade bills on April 27, May 5 and 10, 1983—H.R. 2158.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, Longworth House Building, Washington, D.C.

DEAR CHAIRMAN GIBBONS: We are writing to express our opposition to H.R. 2158, which seeks to increase the duty rate on melamine from the 1983 rate of 4.3 percent to 9.2 percent ad val. American Hoechst Corporation, the U.S. subsidiary of Hoechst AG (Frankfurt, Federal Republic of Germany) purchases melamine as a raw material for the manufacture of laminating resins at its plant in Mt. Holly, North Carolina.

The proposed increase in duty will not only raise the cost of imported melamine but would most likely lead to a corresponding increase in the price of domestically produced melamine. American Hoechst purchases both domestically produced and imported melamine, but domestic material accounted for the predominant part of our purchases in 1982. We estimate that purchases in 1983 will be in the same order of magnitude and proportion. According to our calculations, the proposed increase in the rate of duty for melamine would amount to approximately 2¢ per lb. Consequently, an increased cost of melamine of 2¢ per lb., whether it is of foreign or domestic origin, would raise our raw material costs by a range of at least $25,000 to $50,000 per year at current use levels. It is unlikely that American Hoechst can pass this increase on to its customers, since those of our competitors who produce melamine for captive use will not necessarily be affected by a broad-based increase in the market price of melamine.

Furthermore, we would like to point out that an increase in the duty on melamine, now included in TSUS item 425.10 and dutiable as of 1/1/83 at the trade agreement rate of 4.3 percent ad val. would be contrary to the GATT commitments of the United States. All of present item 425.10 was "bound" by the United States in the Tokyo Round of trade negotiations. The U.S. committed itself to reducing this duty from 5 percent to 3.5 percent in staged reductions over eight years, beginning January 1, 1980. Any delay in that staged reduction would be actionable under GATT XXIII.

In view of the above-mentioned considerations, we respectfully urge that no further action be taken on H.R. 2158.

Sincerely yours,

KARL A. HOCHSCHWENDER.

SIEGEL, MANDELL & DAVIDSON, P.C.,
COUNSELORS AT LAW,
New York, N.Y., April 25, 1983.

Re H.R. 2158.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN GIBBONS: On behalf of our client, Biddle Sawyer Corp., submission is hereby made of comments in opposition to the captioned bill, referred to the House Committee on Ways and Means on March 16, 1983. Biddle Sawyer Corp., located at 2 Penn Plaza, New York, is an importer and distributor of melamine.

H.R. 2158 proposes that the tariff duties covering imported melamine be increased from the present column one rate of 4.3% ad valorem to 9.2% ad valorem. This would be accomplished by breaking out melamine into a separate tariff category under the existing heading for cyanoric chloride, melamine and other compounds containing a triazine ring.

For the reasons set forth below, Biddle Sawyer urges the Subcommittee on Trade to reject consideration of H.R. 2158.

I. THE DOMESTIC INDUSTRY PRODUCING MELAMINE REQUIRES NO RELIEF FROM IMPORT COMPETITION

As recently as May of 1980, the state of health of the domestic industry producing melamine was the subject of an investigation and determination by the United States International Trade Commission in the context of an antidumping investiga-

tion covering melamine produced in Austria and Italy (Investigation Nos. 7331-TA-13 and 731-TA-14).

In its unamimous determination that an industry in the United States would not be injured by reason of imports of melamine, among the findings reported by the International Trade Commission, as published in the Federal Register of May 14, 1980 (45 Fed. Reg. 31830) were the following:

(a) Little, if any, price undercutting by the subject imports was occurring;

(b) Average annual increases in the price of domestically produced melamine were consistent with price increase trends of other industrial chemicals and resins indicating that no price suppression was occurring by reason of imports;

(c) Inventories of domestically produced melamine were declining;

(d) The domestic company which petitioned the Government to initiate the antidumping investigation, Melamine Chemical, Inc. was enjoying large and increasing profits; and

(e) Domestic purchasers of melamine, polled by staff Members of the International Trade Commission, advised that their primary reason for purchasing the imported product (as well as domestically produced melamine) was unrelated to price. Rather, such purchases advised that procurement of the imported product was motivated by the desire to establish an alternative source of supply occasioned by the fear that domestic producers could not meet contractural obligations on a timely basis.

II. PASSAGE OF THE PROPOSED LEGISLATION WILL ADVERSELY IMPACT THE ECONOMY OF THE UNITED STATES

The primary end-uses of melamine include high pressure laminates and surface coatings. As noted in the staff section of the Commission's published determination ("Information Obtained in The Investigation"—USITC Publication 1065 at A-19, 20) laminates and surface coastings together account for over fifty percent of melamine end-use consumption, primarily in the construction industry and auto industry, respectively.

It is difficult to imagine two industries in the United States currently in a more depressed state than the construction and automotive industries. If H.R. 2158 becomes law, the resultant decrease in competition between domestic distributors of melamine will undoubtedly lead to higher prices for both melamine and its end-use products and may even result in shortages of the product available on the domestic market. Clearly, such consequences can only lead to the further deterioration of these beleaguered domestic industries.

III. CONGRESS HAS ALREADY PROVIDED NUMEROUS STATUTORY MECHANISMS FOR PROTECTION OF THE DOMESTIC INDUSTRY

Even under circumstances where a domestic industry's claim for relief from import competition or unfair trade practice is meritorious, it is clear that Congress has already provided numerous mechanisms by which domestic producers may seek such relief. These mechanisms include the antidumping and countervailing duty laws, presently set forth in the Tariff Act of 1930, as amended by the Trade Agreements of 1979, and the laws providing for relief from injury caused by import competition, under the Trade Act of 1974 (§ 302 et seq.).

A rather pertinent example of the application of these mechanisms is the finding of dumping with respect to melamine from Japan on February 2, 1977, published in the Federal Register as Treasury Decision 77-54 (42 Fed. Reg. 6866). The antidumping finding covering melamine from Japan is still in effect and, as reported in a Federal Register Notice of May 28, 1982 (47 Fed. Reg. 23507), no shipments to the United States by the five known Japanese exporters of melamine occured through calendar year 1980 (Up to January 31, 1981, the last date covered by the most recent annual review of the finding).

The Japanese melamine is compelling evidence that adequate procedural safeguards presently exist under the law to insure that meritorious grievances by the domestic industry against injurious imports are redressed. Under any of the above described mechanisms, import duties could be increased to the same or higher levels than are proposed under H.R. 2158, but only after a thorough investigation is conducted as to whether such increases are warranted.

For Congress to now take action to enact tariff barriers without utilization of these investigative and administrative mechanisms cannot logically be sustained. Such action would be contrary to clear Congressional intent expressed in its most recent endeavors in connection with major trade legislation, and would ignore the procedural and substantive safeguards provided in the investigatory procedures which Congress created.

IV. THE PROPOSED LEGISLATION IS VIOLATIVE OF U.S. INTERNATIONAL OBLIGATIONS

The current rate of duty applicable to imported melamine is 4.3 percent ad valorem, in Item 425.10 of the Tariff Schedules of the United States. This rate exists in accordance with the schedule of U.S. concessions annexed to the Geneva (1978) Protocol to the General Agreement on Tariffs and Trade ("GATT") which was concluded during the Tokyo Round of Multilateral Trade Negotiations. Item 425.10 is scheduled for additional duty reductions through January 1st of 1987 when the final negotiated rate of 2.5 percent takes effect.

Although H.R. 2180 proposes to advance the import duties applicable to melamine while leaving other products covered by present Item 425.10, TSUS unaffected, it is clear that when the U.S. concession was made, the product melamine was consciously considered since it is expressly provided for in the descriptive provision to Item 425.10, TSUS. Accordingly, there can be no question that an increase in the rate of duty applicable to this product is in express derogation of an international obligation of the United States set forth in its schedule of concessions under the Geneva Protocol to the GATT.

Article XXIII to the GATT provides that where any contracting party considers that any benefit under a Agreement is being nullified or impaired, it may seek a satisfactory adjustment of the matter and, absent the requisite satisfactory adjustment, may suspend the application of concessions or other obligations to any other contracting party as determined to be appropriate.

The manner in which the United States would view a withdrawal of a trade concession granted by any other party to the Tokyo Round of the MTN is similarly expressed in the General notes to the U.S. Schedule of Concessions (Schedule XX of the Geneva Protocol to the GATT). General Note 15 provides, as follows:

"Since the concessions in this schedule have been included herein as part of a balance in return for the concessions included in their schedules by other participants in the 1973–79 negotiations, the continuation of the concessions herein is dependent upon the implementation by such other participants of the uninterrupted staging of their concessions to the full concession rate. Should there by any significant interruption or delay by any other participant of the staging of its concessions of interest to the United States, or any other significant departure from the general implementation of its concessions, and a satisfactory adjustment to maintain the balance of reciprocal concessions is not reached with such other participant, the United States reserves the right to take such action regarding the staging or other general implementation of its concessions of interest to such other participant as is considered to be justified to restore the reciprocal balance of concessions."

Accordingly, should Congress pass legislation increasing the rate of duty applicable to melamine, the United States will almost certainly be required to grant an offsetting concession elsewhere or face reciprocal withdrawl of trade concessions from other contracting parties.

CONCLUSION

In conclusion, the action proposed under H.R. 2158 is wholly unwarranted in view of the current excellent state of health of the domestic industry producing melamine and the possible adverse economic consequence which could impact end-use industries. Moreover, H.R. 2158 is wholly inconsistent with the letter and spirit of several major pieces of trade legislation considered and passed by Congress in the last decade, and is violative of international obligations of the United States set forth in the Geneva Protocol to the GATT. In connection with the latter, such violation would undoubtedly place the United States in a position of either granting offsetting concessions of facing retaliatory concessions from other parties to the GATT.

Accordingly, Biddle Sawyer Corp. urges the Subcommittee on Trade, House Committee on Ways and Means to reject further consideration of H.R. 2158.

Respectfully submitted,

SIEGEL, MANDELL & DAVIDSON, P. C.,
Attorneys for Biddle Sawyer Corp.

STATEMENT OF RALPH WILSON PLASTICS CO., TEMPLE, TEX.

SUMMARY

Ralph Wilson Plastics Company is strongly opposed to H.R. 2158 because it would add substantially to raw material costs for manufacturers of high-pressure laminates, and other industrial users. A duty increase would have far-reaching adverse

effects for industrial users and their employees, as well as consumers. Furthermore, H.R. 2158 would have an anticompetitive effect since it would only serve to reinforce the market dominance of a single United States company. At the same time, it would breach the international obligations of the United States.

STATEMENT

Ralph Wilson Plastics Company, a division of Dart & Kraft, Inc., wishes to register its strong opposition to H.R. 2158 (to increase the tariff on melamine). This bill is important to us as a manufacturer of high-pressure laminates because it would add substantially to our raw material costs at a time when our industry can ill-afford it. Any increase in the duty on melamine would hurt industrial users and their employees, as well as consumers throughout the economy.

Ralph Wilson Plastics Company, located in Temple, Texas, employs about 1,700 workers and has an annual sales volume in excess of $150,000,000. We manufacture high-pressure laminates from melamine resins.

High-pressure laminates are typically used for decorative furniture and counter tops, cabinets, furniture panels, partitions in mobile homes and public buildings, and commercial wall paneling.

We purchase the melamine/formaldehyde resins we use in our manufacturing process from domestic sources. Virtually all the melamine produced in the United States and abroad is consumed in the manufacture of these resins. If enacted, H.R. 2158 would raise the cost of melamine to resin manufacturers; the price of imported melamine would be raised by the tariff and the price of domestically produced melamine [1] would rise under the tariff umbrella.

The resin manufacturers would, in turn, pass the increased costs on to their customers, the manufacturers of laminates, among others. We would then be faced with absorbing the cost increases or raising prices to our customers and reducing our sales volume. Although there have been favorable signs of a turn-around in the economy, any such increase in raw material costs could stop the recovery in our industry in its tracks.

The detrimental effects of a cost increase would not be limited to manufacturers of laminates and their customers. The effects would be widespread. Melamine is also used in the manufacture of such products as molding compounds, primarily dinnerware; surface coatings for appliance finishes, automotive top coats, and metal furniture finishes; paper and textile coatings to impart wrinkle-resistance and water-repellency; and industrial adhesives. It is readily apparent that the cost increases occasioned by raising the duty on melamine would be felt throughout the economy, at a very inopportune time.

Furthermore, H.R. 2158 would have an anticompetitive effect since it would only serve to reinforce the market dominance of a single United States company. At the same time, it would breach the international obligations of the United States.[2]

For these reasons, it seems clear that the Subcommittee should disapprove the bill. We strongly urge the Subcommittee to do this.

[1] Only one U.S. company, Melamine Chemicals, Inc., produces melamine for sale to industrial users.

[2] The United States struck a bargain in the Multilateral Trade Negotiations to reduce its duty on melamine. If we raise the duty, we would be going back on our word.

H.R. 2206

To continue until the close of June 30, 1986, the existing suspension of duties on certain unwrought alloys of cobalt.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27 and May 10, 1983, the Administration testified that it had no objection to a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

We believe that the effective date of all bills that are not a continuation of current tariff treatment should be no sooner than fifteen days after enactment. Providing an effective date fifteen days after enactment will enable the U.S. Customs Service to notify its field offices and U.S. importers of changes made.

* * * * * * *

H.R. 2206—"To continue until the close of June 30, 1986, the existing suspsension of duties on certain unwrought alloys of cobalt."

We have no objection to enactment of H.R. 2206. There is no domestic industry producing the item referred to in this legislation. The unwrought alloys covered by H.R. 2206 are residues generated during the processing of other forms of cobalt. These residues compete chiefly with other forms of cobalt that already enter duty free, such as cobalt scrap. They cannot be used in so-called "super alloys." There are no import statistics available for the items mentioned in the legislation; therefore, we cannot estimate the revenue loss resulting from enactment of H.R. 2206.

* * * * * * *

We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 2206, if enacted, would extend the previous temporary suspension of the column 1 rate of duty [1] on certain unwrought alloys of cobalt provided for in item 632.88, subpart K, part 2, schedule 6 of the Tariff Schedules of the United States (TSUS). This duty suspension would be effective from July 1, 1983 through June 30, 1986.

A temporary duty suspension on certain unwrought alloys of cobalt was first introduced in the 96th Congress in 1979 and became effective October 17, 1980. This legislation expired on June 30, 1982.

DESCRIPTION AND USES

Cobalt is a hard, tough, silvery gray metallic element. Pure cobalt (currently defined as minimum 99 percent cobalt) is one of several vital alloying elements in the

[1] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

aerospace and electrical-product industries. In most of its alloying applications, cobalt imparts heat resistance, high strength, wear resistance, and superior magnetic properties. Major metallic uses are in permanent magnets, cemented carbides, cutting tools, jet engine parts, and electrical devices.

The articles under consideration are produced from low grade slag and are considered by trade sources to normally contain between 90 and 96 percent cobalt. The low grade slag does not lend itself to the manufacture of high purity metal because the chemical and metallurgical methods of treatment for this type of material differ from traditional cobalt refinery practices. The metal so generated contains primarily iron and nickel contents (from 4 to 10 percent), which are difficult to extract and present difficulties in its use. These cobalt alloys are used primarily by producers of magnets.

TARIFF TREATMENT

Unwrought alloys of cobalt containing, by weight, 76 percent or more but less than 99 percent cobalt are provided for in TSUS item 632.88 with a column 1 rate of duty of 7.3 percent ad valorem, an LDDC rate of duty[2] of 5.5 percent ad valorem, and a column 2 rate of duty[3] of 45 percent ad valorem.[4] Certain alloys of cobalt had a column 1 rate of duty of 9 percent ad valorem prior to the most recent Multilateral Trade Negotiations (MTN). The staged rates under the MTN, which become effective January 1 of each year during 1980–87, are as follows: 1980=8.6 percent ad valorem, 1981=8.1 percent ad valorem, 1982=7.7 percent ad valorem, 1983=7.3 percent ad valorem, 1984=6.8 percent ad valorem, 1985=6.4 percent ad valorem, 1986=5.9 percent ad valorem, and 1987=5.5 percent ad valorem. These articles are not subject to the GSP and are therefore not eligible for duty-free entry when imported from designated beneficiary developing countries.[5]

STRUCTURE OF THE DOMESTIC INDUSTRY

Amax, Inc. (Port Nickel division) operates the only domestic refinery for production of cobalt metal in Braithwaite, Louisiana. Amax recovers cobalt from imported nickel-cobalt and nickel-copper-cobalt matte. The rated production capacity for cobalt at the facility, which employs approximately 420 persons, is 1 million pounds per year. Amax produces primarily pure metal and would not be affected by this legislation.

There are no known domestic producers of unwrought, alloyed cobalt containing between 76 and 99 percent cobalt. The major domestic consumers of this material are permanent magnet manufacturers, the three largest of which are Crucible/Colt, Indiana General, and Hitachi Magnetics.

DOMESTIC PRODUCTION

Production of cobalt at the Amax facility during 1978–82, as reported by U.S. Bureau of Mines, was as follows:

Year:	*Quantity (pounds)*
1978	643,000
1979	928,000
1980	1,000,000
1981	893,000
1982	1,000,000

[2] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column numbered 1 applies.

[3] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[4] This item is a residual ("basket") category encompassing other unwrought alloys of various base metals.

[5] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

The value of domestic production is unknown; however, the listed producer price of cobalt was as follows, as reported by the U.S. Bureau of Mines:

Year:	*Price (pound)*
1978	$6.40 to $20.00
1979	$20.00 to $25.00
1980	$25.00
1981	$17.26 to $25.00
1982	$12.50 to $17.26

U.S. IMPORTS

Official U.S. statistics on imports of unwrought alloys of cobalt containing, by weight, 76 percent or more but less than 99 percent cobalt are not believed to be reliable due to the agglomeration of products in TSUS item 632.88 and lack of reporting under TSUS item 911.90. According to trade sources, the subject cobalt alloys are imported from West Germany and are a relatively recent phenomenon. It is estimated by these trade sources that since enactment of the temporary legislation in October 1980, 80,000–120,000 pounds of the material were imported. In addition, it is estimated that more of the subject cobalt alloys will be imported in the coming years because of the current worldwide surplus market conditions and reduced prices. It is estimated that 120,000 pounds per year is now available for import into the United States from West Germany.

For the comparative purposes, imports of unwrought, unalloyed cobalt and waste and scrap (TSUS item 632.20) were as follows during 1978–82:

	Quantity (1,000 pounds)	Value (1,000 dollars)	Unit value (per pound)
Year:			
1978	16,488	167,662	10.17
1979	18,888	462,250	24.47
1980	14,954	357,475	23.91
1981	13,906	238,820	17.17
1982	11,898	137,166	11.53

Note.—The principal import sources were Zaire, Canada, Japan, and Zambia.

U.S. EXPORTS

Exports of unwrought alloys of cobalt containing, by weight, 76 percent or more but less than 99 percent cobalt are unknown since they are not separately reported in official U.S. statistics. They are, however, considered to be negligible.

For comparative purposes, exports of unwrought cobalt and waste and scrap (Schedule B number 630.3020) were as follows during 1978–82:

	Quantity (1,000 pounds)	Value (1,000 dollars)	Unit value (per pound)
Year:			
1978	2,154	17,846	8.29
1979	1,244	19,402	15.60
1980	1,485	14,576	9.81
1981	2,196	16,462	7.50
1982	838	7,648	9.13

Note.—The principal export markets were Belgium, the Netherlands, and Japan.

APPARENT U.S. CONSUMPTION

Apparent U.S. consumption of these cobalt alloys are not available. However, during 1978–82, consumption of cobalt metal as reported by the U.S. Bureau of Mines was as follows:

[In thousands of pounds]

Year:	Quantity
1978	19,994
1979	17,402
1980	15,321
1981	11,680
1982	10,000

POTENTIAL ANNUAL LOSS OF REVENUE

Assuming that the maximum available quantities of these cobalt alloys are imported (120,000 pounds per year), and that its value is and will remain at or below $15 per pound during the duty suspension period, it is estimated that up to $131,400 per year in customs revenue will be lost.

TECHNICAL COMMENTS

Since TSUS item 911.90 expired on June 30, 1982, line 5 of the bill should be amended to read "6/30/82" instead of "6/30/83". Likewise, the title should be amended to delete the word "existing" since the duty suspension expired in June 1982.

STATEMENT OF HON. ANDY IRELAND, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. Chairman, I appreciate this opportunity to present my views with regard to H.R. 2206, a bill which I recently introduced to continue until June 30, 1986 the existing suspension of duties on certain unwrought alloys of cobalt. I am also grateful to the Chairman for taking this matter up so expeditiously.

As you may know, the material we are considering is the key ingredient in certain tool and alloy steels, carbide production, chemicals and ceramics, magnets, and in the super alloys used for such critical purposes as jet engine blades. In some of these cases, substitution has taken place or is taking place, because of the price and uncertainy of supply. However, in most cases, cobalt it, at least in the near term, irreplaceable.

Pure cobalt, currently defined as 99% cobalt, has been exempted from the duty because there is only small, secondary domestic production of cobalt and domestic users are dependent upon imported material, the bulk of which comes from Zaire and Zambia.

Maintenance of this duty will eliminate the import of the current production and discourage expansion and new production of similar type materials. U.S. consumer industries will be placed at a competitive disadvantage and American consumers will pay a higher price for finished products.

I am including, for submission in the hearing record, a U.S. Bureau of Mines' summary showing there is no domestic primary production of cobalt and that production from scrap amounts to only about 5 percent of annual domestic consumption.

Mr. Chairman, I understand the Administration does not oppose continuation of this suspension, and, as time is getting short, I urge the Committee's rapid consideration of this legislation.

; & PRECIOUS METALS

Domestic Cobalt Statistics

(Short Tons of of Contained Metal)

Year or Month	Apparent Consumption	Reported Consumption	PRODUCTION		Imports	Exports[2]	INVENTORIES		Price $/Lb.[4]
			Primary	From Old Scrap[1]			Private[3]	Government	
1978	10,182	9,997	0	518	9,515	774	3,010	20,401	11.53
1979	9,403	8,701	0	585	9,999	363	3,828	20,401	24.58
1980	8,527	7,661	0	592	8,151	282	3,753	20,401	25.00
1981	6,266	5,840	0	486	7,797	417	4,186	21,568[5]	19.73
1981:									
Jan.	483	548	0	32	382	41	1,948	20,401	25.00
Feb.	616	483	0	85	565	15	1,948	20,401	25.90
Mar.	549	595	0	53	468	23	1,895	20,401	20.00
Apr.	957	532	0	51	842	22	1,810	20,401	20.00
May	516	520	0	47	450	69	1,723	20,401	20.00
June	559	468	0	42	474	48	1,634	20,401	20.00
July	373	381	0	75	351	44	1,643	20,401	20.00
Aug.	555	422	0	47	380	20	1,495	20,401	17.66
Sept.	549	446	0	58	471	51	1,424	20,401	17.26
Oct.	1,322[e]	435	0	53	1,223	35	1,343	20,401[5]	17.26
Nov.	935[e]	402	0	63	1,142	19	1,594	20,401[5]	17.26
Dec.	1,212[e]	411	0	44	1,109	48	1,497	20,401[5]	17.26
1982:									
Jan.	540[e]	472	0	44	441	17	1,415	20,401[5]	17.26
Feb.	997[e]	450	0	39	1,008	16	1,440	20,401[5]	12.50
Mar.	1,200[e]	515	0	38	900	27	1,151	20,401[5]	12.50
Apr.	411[e]	450	0	27	492	17	1,242	20,401[5]	12.50
May/e	752[e]	420	0	40	800	30	1,300	20,401[5]	12.50
June/e	(685)	420	0	40	800	30	1,300	21,896	12.50
July/e	810	420	0	40	800	30	1,300	21,896	NA

1/Reported consumption of purchased scrap.
2/Content of unwrought cobalt, cobalt alloys and waste and scrap.
3/End-of-month stocks at processor and consumer establishments only.
4/Weighted average based on market price quoted by major cobalt dealer in the United States.
5/Estimated as consigned to the stockpile, based on import data.
6/Recent imports which were intended for the national stockpile have not yet been officially recorded as accepted for the stockpile.
e/Estimated.
r/Revised.
Source: Minerals & Materials/A Bimonthly Survey, Bureau of Mines.

H.R. 2215

To suspend the duty on certain nitrogenous chemical compounds until the close of June 30, 1986.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27 and May 10, 1983, the Administration testified that it had no objection to a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

We believe that the effective date of all bills that are not a continuation of current tariff treatment should be no sooner than fifteen days after enactment. Providing an effective date fifteen days after enactment will enable the U.S. Customs Service to notify its field offices and U.S. importers of changes made.

* * * * * * *

H.R. 2215—"To suspend the duty on certain nitrogenous chemical compounds until the close of June 30, 1986."

We have no objection to enactment of H.R. 2215. We understand that there is no domestic production of these chemicals. The duty suspension would reduce costs to U.S. purchasers and would have no negative impact on U.S. producers. Precise import data necessary to calculate an estimate of potential revenue loss if H.R. 2215 is enacted are not available.

* * * * * * *

We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

H.R. 2221

To suspend for a 3-year period the duty on 2-Methyl, 4-chlorophenol.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27 and May 10, 1983, the Administration testified that it had no objection to a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

We believe that the effective date of all bills that are not a continuation of current tariff treatment should be no sooner than fifteen days after enactment. Providing an effective date fifteen days after enactment will enable the U.S. Customs Service to notify its field offices and U.S. importers of changes made.

* * * * * * *

H.R. 2221—"To suspend for a three/year period the duty on 2-Methyl,4-chlorophenol."

We have no objection to enactment of H.R. 2221. At present there is no domestic production of 2-Methyl, 4-chlorophenol (PCOC). The sole U.S. producer of two herbicides, MCPA and MCPP, which use PCOC in their production must rely totally on imports of PCOC for its resource material needs. Suspension of the duty on PCOC would help control the production costs of MCPA and MCPP. Revenue loss from enactment of H.R. 2221 is expected to be between $500,000 and $700,000 annually.

* * * * * * *

We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

STATEMENT OF FRANK HICKS, WORKS MANAGER, DIAMOND SHAMROCK CORP., TUSCALOOSA, ALA.

Mr. Chairman, thank you for the opportunity to submit comments on H.R. 2221, a bill to suspend the import on 2-Methyl, 4-Cholorphenol.

Diamond Shamrock Corporation is a domestic, intergrated oil and gas company. We produce crude oil, natural gas and coal; refine market petroleum products; and manufacture chemicals for broad industrial and commercial use. In 1982, approximately one third of our sales and operating revenues were attributable to chemicals.

Our area of concern today lies with production of agricultural herbicides at our Tuscaloosa, Alabama facility. We use the chemical 2-Methyl, 4-Chlorophenol (also known as PCOC) to produce two benezoid herbicide, MCPA & MCPP. AS PCOC is not produced in the U.S., we must export the raw ingredient to our plant in England for chlorination. Upon reimportation as PCOC, it is subject to a prohibitive import duty which greatly increases our costs and limits our ability to compete with foreign sources on the final product. As there are no domestic producers of PCOC, suspension of the tariff would present no potential of harm to domestic industry.

The principal reason for introducing this legislation is to protect the jobs in the Tuscaloosa area and hopefully provide opportunity for increased employment in the future. Jobs are a critical issue in the state of Alabama and in the Tuscaloosa area, which is experiencing a high level of unemployment well above the national average. Economics have already reduced employment at the plant from 85 to 55 people over the past two years.

The plant facility was completed in 1977 with $11,000,000 in local financing of industrial development bonds and its continued success is important to the local area. For these reasons, we feel that approval of the bill to suspend the duty is justified.

H.R. 2258

To suspend the duty on certain benzoid chemicals until the close of June 30, 1986.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27 and May 10, 1983, the Administration testified that it had no objection to a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

We believe that the effective date of all bills that are not a continuation of current tariff treatment should be no sooner than fifteen days after enactment. Providing an effective date fifteen days after enactment will enable the U.S. Customs Service to notify its field offices and U.S. importers of changes made.

* * * * * * *

H.R. 2258—"To suspend the duty on certain benzoid (sic) chemicals until the close of June 30, 1986."

We have no objection to enactment of H.R. 2258. Duties on five specific benzenoid chemicals are affected by H.R. 2258. There is no domestic production of trichloro salicylic acid and m-Aminophenol. There is no domestic production of 6-amino-1-naphthol-3-sulfonic acid for the merchant market. One U.S. company is known to produce 6-amino-1-naphthol-3-sulfonic acid for captive use, but this company, along with other U.S. users, must occasionally import this chemical. Duty suspensions on these products would reduce the costs to U.S. purchasers and woud have no negative effect on U.S. production.

There is no domestic production of 4-acetamino-benzene-sulfonyl Cl for the merchant market. This chemical, also known as N-acetylsulfanilyl chloride, is manufactured by one U.S. company for captive use. While a duty suspension would reduce the costs to this company's competitors in finished products incorporating 4-acetamino-benzene-sulfonyl Cl, we believe that the current import duty needlessly increases costs to U.S. purchasers which have no alternative source in the domestic market.

We understand that there is one domestic producer of para ethyl pehnol. We believe that a duty suspension is unlikely to have a negative effect on the domestic producer in this case. Its production of this chemical is not made in dedicated facilities and is not on a continuous basis. Production is geared to anticipated short-term demand. On the other hand, in view of the lack of other domestic sources and the existence of a 19.3 percent ad valorem column 1 rate of duty on imports, we believe that the duty suspension could reduce costs both to domestic users of para ethyl phenol and purchasers of finished products incorporating para ethyl phenol. the USITC estimates that enactment of H.R. 2258 would result in potential revenue losses of $2 million per year.

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We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

H.R. 2259

To suspend the duty on certain surface active agents until the close of June 30, 1986.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27, 1983, the Administration testified that it objected to enactment of a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

* * * * * * *

H.R. 2259—"To suspend the duty on certain surface active agents until the close of June 30, 1986."

We object to enactment of H.R. 2259. We understand that this bill was introduced in the belief that there are no domestic producers of these chemicals. However, one company, Kerley Industries, located in Arizona, will bring a new plant on stream in May 1983 and will have the capability of producing each of these chemicals. The plant's capacity will be sufficient to meet U.S. demand. In view of this new productive capability, the duty suspension appears unwarranted. It is estimated that enactment of H.R. 2259 would result in potential revenue losses of approximately $120,000.

* * * * * * *

We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

KERLEY INDUSTRIES INC.,
MINING CHEMICALS DIVISION,
Sahuarita, Ariz., May 11, 1983.

Re House bill H.R. 2259.

JOHN SALMON,
General Counsel, House Ways and Means Committee,
House of Representatives, Washington, D.C.

DEAR MR. SALMON: We are disturbed and concerned that House Bill HR 2259 has been proposed to remove import tariffs on certain mining chemical reagents, specifically naming xanthate flotation chemicals.

Kerley Industries has manufactured xanthate flotation chemicals for several years in its southern Arizona chemical facility. Additionally, in early 1982, and at considerable expenditure, we began construction on a modern, 25 million pounds per year xanthate production facility at the Sahuarita location. This facility will begin producing xanthate, including isopropyl xanthate, amyl xanthate, ethyl xanthate and butyl exanthate, during May, 1983.

Kerley Mining Chemicals Division can produce sufficient xanthate flotation chemicals to supply all the domestic United States needs, as well as having material for export. Attached for your information are Technical Bulletins on two of our xanthate products.

We believe it is unfair for Kerley Industries to be required to pay import duties for shipment of products into other countries, i.e. Canada, Mexico, South America, etc.; and lose the protection of an import tariff by outside manufacturers shipping into the United States.

It is imperative, we believe, that this information and our concern be brought before the Ways and Means Committee before any decision is made on H.R. 2259.

We would appreciate your efforts in presenting our objection to the Ways and Means Committee or advising us on how we can present this cr other information before them.

Very truly yours,

R. E. ASHCROFT,
Vice President, Kerley Industries Inc.,
Mining Chemicals Division.

[Enclosures have been retained in the subcommittee files.]

H.R. 2265

To reduce temporarily the duty on caffeine.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27 and May 10, 1983, the Administration testified that it had no objection to a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

We believe that the effective date of all bills that are not a continuation of current tariff treatment should be no sooner than fifteen days after enactment. Providing an effective date fifteen days after enactment will enable the U.S. Customs Service to notify its field offices and U.S. importers of changes made.

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H.R. 2265—"To reduce temporarily the duty on caffeine."

We have no objection to enactment of H.R. 2265. U.S. industry last year indicated that a permanent reduction of this duty would be inequitable unless the United States sought a comparable reduction from the European Community. West Germany is the principal source of U.S. imports and the European Community had a tariff rate of 10.4 percent ad valorem which was not reduced during the Tokyo Round of trade negotiations.

In return for the temporary U.S. reduction last year on caffeine, the European Community reduced its duty on caffeine from 10.4 percent ad valorem to 6 percent ad valorem, effective January 1, 1983 through December 1, 1983. The European Community has indicated a willingness to make further reductions if the United States is willing to reciprocate. Enactment of this bill would be indicative of U.S. interest in further reductions. Unless the European Community reciprocates with an additional temporary reduction, the U.S. tariff will revert, on January 1, 1986, to the rate that would have been in effect had there not been a temporary reduction. Revenue loss from enactment of H.R. 2265 is expected to be approximately $500,000 annually for the years 1983 through 1985.

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We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 2265, if enacted, would amend temporary item 907.22, covering caffeine imported in bulk, in the Appendix to the Tariff Schedules of the United States (TSUS). The legislation would strike out the duty rate "6% ad val." and insert in lieu thereof "4.1% ad val." and would strike out "12/31/83" and insert in lieu thereof "12/31/85". The purpose of these changes is to reduce further, effective until the end of 1985, the temporary lower rate of duty being assessed under this Appendix item during 1983.[1]

[1] Item 907.22 was established effective January 27, 1983, as to caffeine provided for in item 437.02, part 3B, schedule 4 (Public Law 97-446, sec. 138). Pursuant to that Act, such caffeine is dutiable during 1983 at a most-favored-nation (MFN) rate of 6 percent ad valorem rather than at the percent rate otherwise applicable under item 437.02. As proposed originally under H.R. 5811, 97th Congress, further duty reductions in the years 1984 through 1987 would have been implemented.

BACKGROUND INFORMATION

Pure caffeine is a white, odorless, crystalline powder with a bitter taste. It is one of the xanthine alkaloids and occurs naturally in coffee beans, tea leaves, and kola nuts. Caffeine is a central nervous system stimulant. Most caffeine is produced by chemical synthesis or as a by-product of the production of decaffeinated coffee.

The principal end use for caffeine is in cola soft drinks. As a drug, caffeine is frequently added to analgesic and cold and allergy preparations to counteract drowsiness caused by other drugs in the preparation.

TARIFF TREATMENT

Caffeine is classifiable under TSUS item 437.02 when imported in bulk form. The column 1 duty rate [2] for item 437.02 is 8 percent ad valorem,[3] the least developed developing country (LDDC) rate [4] of duty is 6 percent ad valorem, and the column 2 rate of duty is 59 percent ad valorem. [5]

Caffeine imported in dosage forms (pills, ampoules, etc.) rather than in bulk is classifiable under TSUS item 438.02, covering drugs, provided for in part 3B of schedule 4. Such caffeine would not be affected by this legislation.

The following table summarizes the scheduled staged reductions in rates of duty granted in the Tokyo round of Multilateral Trade Negotiations (MTN) for TSUS items 437.02 and 438.02.

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[2] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

[3] Effective Jan. 27, 1983, the MFN rate of duty on caffeine was reduced temporarily (through Dec. 31, 1983) to 6 percent ad valorem, as described above.

[4] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column numbered 1 applies.

[5] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

Caffeine: U.S. rates of duty, by TSUS items

(Cents per pound; percent ad valorem)

TSUS item No.	Description	Pre-MTN col. 1 rate of duty 1/	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1-- 1980	1981	1982	1983
	Alkaloids and their esters, ethers, salts, and other compounds:					
	Caffeine and its compounds:					
437.02	Caffeine----------	25¢	9.5% 2/	9%	8.5%	8% 3/
438.02	Caffeine, when imported in ampoules, capsules, etc.	The rate provided for item 437.02 but not less than 5%	The rate provided for item 437.02. but not less than: 4.8%	The rate provided for item 437.02, but not less than 4.7%	The rate provided for item 437.02, but not less than: 4.5%	The rate provided for item 437.02, but not less than 4.4%

TSUS item No.	Description	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1-- 1984	1985	1986	1987	Col. 2 rate of duty
	Alkaloids and their esters, ethers, salts, and other compounds:					
	Caffeine and its compounds:					
437.02	Caffeine----------	7.5%	7%	6.5%	6%	59%
438.02	Caffeine, when imported in ampoules, capsules, etc.	The rate provided for item 437.02, but not less than 4.2%	The rate provided for item 437.02, but not less than: 4%	The rate provided for item 437.02, but not less than 3.9%	The rate provided for item 437.02, but not less than: 3.7%	The rate provided for item 437.02, but not less than 25%

1/ Rate effective prior to Jan. 1, 1980, for item 438.02 and prior to July 1, 1980, for item 437.02.

2/ Rate effective after July 1, 1980.

3/ Effective Jan. 27, 1983, the rate of duty on caffeine was reduced temporarily (through Dec. 31, 1983) to 6 percent ad valorem.

Imports from all designated beneficiary developing countries under TSUS items 437.02 and 438.02 are eligible for duty-free entry under the Generalized System of Preferences (GSP).[6]

STRUCTURE OF THE DOMESTIC INDUSTRY

In 1981, caffeine was produced in the United States by the following firms:

Certified Processing Corp., U.S. Highway 22, Hillside, New Jersey 07105.

General Food Corp., Maxwell House Coffee Div., 1125 Hudson Street, Hoboken, New Jersey 07030.

Pfizer, Inc., 235 East 42nd Street, New York, New York 10017.

DOMESTIC PRODUCTION

Precise production data for caffeine are not available. However, production in 1981 is estimated by Commission staff to have been somewhat less than 4.9 million pounds.

U.S. IMPORTS

Virtually all caffeine is imported in bulk under TSUS item 437.02. Imports of caffeine under TSUS item 438.02 are believed to be nil. Imports of caffeine for the past 5 years are detailed in the following table for item 437.02.

[6] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

Caffeine, in bulk: U.S. imports for consumption, by principal sources, 1978-82

Source	1978	1979	1980	1981	1982
	Quantity (1,000 pounds)				
West Germany	3,292	4,368	6,026	3,198	2,984
People's Republic of China	0	0	171	463	240
Canada	0	0	29	0	22
All other	68	132	1	81	45
Total	3,360	4,500	6,227	3,742	3,291
	Value (1,000 dollars)				
West Germany	10,273	15,637	25,776	12,197	10,924
People's Republic of China	-	-	658	1,729	763
Canada	-	-	120	-	82
All other	242	511	1/	345	142
Total	10,515	16,148	26,554	14,275	11,911
	Unit value (cents per pound)				
West Germany	$3.12	$3.58	$4.28	$3.81	$3.66
People's Republic of China	-	-	3.85	3.73	3.18
Canada	-	-	4.14	-	3.73
All other	3.55	3.87	-	4.31	3.16
Average	3.13	3.59	4.16	3.81	3.62

1/ Less than $500.00.

Source: Compiled from official statistics of the U.S. Department of Commerce.

West Germany supplied 91 percent of the quantity of caffeine imported into the United States in 1982 and was the dominant foreign supplier during 1978-1982.

U.S. EXPORTS

Export data for caffeine are not available, but U.S. exports of caffeine are believed to be negligible.

APPARENT U.S. CONSUMPTION

Apparent consumption in 1982 is estimated to have been equal to U.S. production plus imports, although precise data are not available.

POTENTIAL ANNUAL LOSS OF REVENUE

Based on the value of 1982 imports, the loss of customs revenue which would result from the enactment of this legislation is approximately $110,000 in 1983, [7] $400,000 in 1984, and $350,000 in 1985.

[7] Represents half of calendar year 1983, based on a reduction in duties from the temporary rate of 6 percent ad valorem to the proposed rate of 4.1 percent ad valorem.

H.R. 2270

To provide for uniform tariff treatment of pet toys.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27 and May 10, 1983, the Administration testified that it had no objection to a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

We believe that the effective date of all bills that are not a continuation of current tariff treatment should be no sooner than fifteen days after enactment. Providing an effective date fifteen days after enactment will enable the U.S. Customs Service to notify its field offices and U.S. importers of changes made.

* * * * * * *

H.R. 2270—"To provide for uniform tariff treatment of pet toys."

We have no objection to enactment of H.R. 2270. We have no objection to reducing the tariff rate on pet toys of textile materials to the same rate faced by pet toys of other materials. The intent of the tariff structure is for toys to be classified as toys in schedule 7. The change would not affect the textile program or quotas. The USITC estimates a $1 million loss of revenue based on current duty rates. Based on post-MTN rates, the USITC estimates a revenue loss of $100,000.

* * * * * * *

We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 2270, if enacted, would establish a new provision in subpart A, part 13, schedule 7 of the Tariff Schedules of the United States (TSUS) to provide specifically for toys for pets, of textile materials. Depending upon the component material in chief value, these articles are presently classifiable in TSUS item numbers: 386.04(pt.), 386.06(pt.), 386.13(pt.), 386.15(pt.), 386.20(pt.), 386.25(pt.), 386.30(pt.), 386.40(pt.), 386.50(pt.), 387.10(pt.), 387.20(pt.), 387.25(pt.), 387.32(pt.), 387.37(pt.), 388.10(pt.), 388.30(pt.), 388.40(pt.), 389.40(pt.), 389.50(pt.), 389.62(pt.), and 389.70(pt.)—articles not specially provided for, of textile materials, of cotton, vegetable fibers, wool or man-made fibers, whether or not ornamented. This legislation would create a new rate provision in schedule 7 (proposed item 790.57) with a column 1 rate of duty [1] of 8.5 percent ad valorem and a column 2 rate of duty [2] of 80 percent ad valorem. The resulting column 1 rates of duty applicable to these articles would be reduced, or increased, as follows:

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[1] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

[2] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

(Cents per pound; percent ad valorem)

Present TSUS classification	1983 rate of duty	Proposed rate of duty for item 790.57	Resulting increase or decrease
386.04(pt.)	34%	8.5%	-
386.06(pt.)	20%	8.5%	-
386.13(pt.)	20%	8.5%	-
386.15(pt.)	14.3%	8.5%	-
386.20(pt.)	29%	8.5%	-
386.25(pt.)	8%	8.5%	+
386.30(pt.)	22%	8.5%	-
386.40(pt.)	14.3%	8.5%	-
386.50(pt.)	11.7%	8.5%	-
387.10(pt.)	10.5%	8.5%	-
387.20(pt.)	2.4%	8.5%	+
387.25(pt.)	5.8%	8.5%	+
387.32(pt.)	5.8%	8.5%	+
387.37(pt.)	5.8%	8.5%	+
388.10(pt.)	25¢ + 14%	8.5%	-
388.30(pt.)	22¢ + 9%	8.5%	-
388.40(pt.)	13.2%	8.5%	-
389.40(pt.)	16¢ + 20.8%	8.5%	-
389.50(pt.)	10¢ + 20.3%	8.5%	-
389.62(pt.)	16¢ + 13%	8.5%	-
389.70(pt.)	8.6%	8.5%	-

The current column 2 rates of duty applicable to these articles—which range from 40 percent ad valorem to 90 percent ad valorem—would be reduced or increased to 80 percent ad valorem if they become classifiable under proposed item 790.57.

The purpose of the legislation is to insure that the rate of duty on the subject toys is no higher than the rate of duty currently assessed on toys for pets, of rubber or plastics, provided for in TSUS item 773.05. The current rate of duty on the latter item is 8.5 percent ad valorem. The legislation also seeks to unify and simplify the assessment of duty on toys for pets regardless of the type of material from which they are constructed.

DESCRIPTION AND USES

Mr. Arthur Hirschberg of Vo-Toys, Inc., located in the Bronx, New York City, N.Y., along with other importers and domestic producers of toys for pets, of textile materials, describe these toys as being used primarily by cats, and to a lesser extent by dogs, for the purpose of chewing, scratching, or playing. The bulk of these toys are constructed from fabric scraps obtained from apparel and upholstery operations. In most instances the cut pieces are sewn together by machine, stuffed by hand, and then closed by hand sewing. They are sold either by the dozen or by the gross.

The toys used by cats are animal (rats, cats, and dogs), food (pretzel, hot dog, and hamburger), and geometric (ball and square) shaped configurations. Cat toys are usually 2 to 3 inches in length, 1½ inches wide, weigh approximately 1 ounce, and retail at about $1 each. The covers may be woven, knitted, or tufted, and are generally constructed from either cotton, vegetable fibers, or man-made fibers. The stuffing for these toys may be either cotton waste, man-made fiber waste, catnip, or a combination of these.

Dog toys are similar to those used by cats except that they are larger—usually 5 inches long, 2 inches wide, and weigh approximately 3 to 4 ounces—covered in burlap or canvas fabrics, stuffed with a device that makes noise, and retail for $2 or more each.

TARIFF TREATMENT

Toys for pets, of textile materials, are currently provided for, together with numerous other products, in TSUS items 386.04, 386.06, 386.13, 386.15, 386.20, 386.25, 386.30, 386.40, 386.50, 387.10, 387.20, 387.25, 387.32, 387.37, 388.10, 388.30, 388.40, 389.40, 389.50, 389.62, and 389.70 (articles not specially provided for, of textile materials, whether or not ornamented). These classifications cover those articles in chief value of cotton, vegetable fibers, wool, or man-made fibers.

The effect of the tariff concessions, agreed to under the Multilateral Trade Negotiations (MTN), upon these schedule 3 categories is that the most-favored-nation rate of duty will be reduced in annual stages, as shown in the following tabulation:

Page for pets, of textile materials: U.S. rates of duty, by TSUS items

(Cents per pound; percent ad valorem)

TSUS Item No. 1/	Description	Pre-MTN col. 1 rate of duty 2/	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1--								Col. 2 rate of duty
			1980	1981	1982	1983	1984	1985	1986	1987	
	Articles not specially provided for, of textile materials:										
	Lace or net articles, whether or not ornamented, and other textile articles ornamented:										
306.04(pt.)	Of cotton	40%	40%	40%	37%	34%	31%	28%	25%	22% 3/	90%.
306.06(pt.)	Of wool	25%	25%	25%	22.5%	20%	17.5%	15%	12.5%	10%	90%.
	Other:										
306.13(pt.)A* 4/	Other	5/	5/	5/	5/	20%	6/	6/	6/	6/	90%.
	Other articles, not ornamented:										
	Of cotton:										
306.15(pt.)	Knit (except pile or tufted construction).	5/	5/	5/	5/	14.3%	6/	6/	6/	6/	45%.
	Pile or tufted construction:										
306.20(pt.)	Corduroy	35%	35%	35%	32%	29%	26%	23%	20%	17% 7/	50%.
306.25(pt.)	Terry	14%	14%	14%	11%	8%	7%	7%	7%	7%	40%.
306.30(pt.)	Velveteen, velvet, plush, velour, or any combination thereof.	28%	28%	28%	25%	22%	19%	16%	13%	11.2%	62.5%.
306.40(pt.)	Other	17.5%	17.5%	17.5%	15.9%	14.3%	12.7%	11%	9.4%	7.8%	50%.
306.50(pt.)	Other	14%	14%	14%	12.8%	11.7%	10.5%	9.3%	8.2%	7%	40%.
	Of vegetable fibers, except cotton:										
307.10(pt.)	Knit (except pile or tufted construction).	12.5%	12.5%	12.5%	11.5%	10.5%	9.6%	8.6%	7.6%	6.6%	45%.
307.20(pt.)	Pile or tufted construction.	8%	8%	8%	3%	2.4%	2.4%	2.4%	2.4%	2.4%	30%.
	Other:										
307.25(pt.)A	Of coir	8/	8/	6.5%	6.2%	5.8%	6/	6/	6/	6/	40%.
307.32(pt.)A	Of jute	6.5%	6.5%	6.5%	6.2%	5.8%	5.5%	5.1%	4.8%	4.4%	40%.
307.37(pt.)	Other	9/	9/	9/	8.2%	3.8%	6/	6/	6/	6/	40%.
	Of wool:										
	Knit (except pile or tufted construction):										
308.10(pt.)	Valued not over 55 per pound.	37.5 + 15%	37.5c + 15%	37.5c + 15%	31c + 14.5%	25c + 14%	18c + 13.5%	12c + 13%	6c + 12.5%	12%	70.5%.
308.30(pt.)	Pile or tufted construction.	33c + 10%	33c + 10%	33c + 10%	27c + 9.5%	22c + 9%	16c + 8.5%	11c + 8%	5c + 7.5%	7%	60.5%.
308.40(pt.)	Other	16%	16%	16%	14.6%	13.2%	11.8%	10.3%	8.9%	7.5%	50%.
	Of man-made fibers:										
309.40(pt.)	Knit (except pile or tufted construction).	25c + 25%	25c + 25%	25c + 25%	21c + 22.9%	16c + 20.8%	12c + 18.8%	8c + 16.7%	4c + 14.6%	12.5%	72%.
309.50(pt.)	Pile or tufted construction.	15c + 25%	15c + 25%	15c + 25%	12c + 22.7%	10c + 20.3%	7c + 18%	5c + 15.7%	2c + 13.3%	11%	74%.
	Other:										
309.62(pt.)	Other	25c + 15%	25c + 15%	25c + 15%	21c + 14%	16c + 13%	12c + 12%	8c + 11%	4c + 10%	9%	70.5%.
309.70(pt.)	Other	10%	10%	10%	9.3%	8.6%	7.9%	7.2%	6.5%	5.8%	40%.

1/ The designation "A" indicates that the item is currently designated as an eligible article for duty-free treatment under the U.S. Generalized System of Preferences (GSP) and that all beneficiary developing countries are eligible for the GSP.

2/ Rate effective before January 1, 1980.

3/ For item 306.04, the rates of duty after 1987 will be as follows: articles entered on or after January 1, 1988--19% and 1989--16%.

4/ The designation "A*" indicates that the item is currently designated as an eligible article for duty-free treatment under the GSP and that all beneficiary developing countries are eligible for the GSP except for Taiwan.

5/ This item was not established until January 1, 1983.

6/ No concessions granted.

7/ For item 306.20, the rates of duty effective for articles entered on or after January 1, 1988, will be 14%.

8/ This item was not established until January 1, 1981.

9/ This item was not established until January 1, 1982.

The column 2 rate of duty for these TSUS categories ranges from 40 to 90 percent ad valorem. However, there have been no known imports of toys for pets, of textile materials, from column 2 sources.

The United States has granted an accelerated reduction of the MFN rate of duty for imports from the least developed developing countries (LDDC rates).[3] Haiti is the only known source affected by the accelerated reduction of the MFN rate of duty. The subject toys for pets, when classifiable in TSUS items 386.13, 387.25, and 387.32 are granted duty-free treatment under the Generalized System of Preference (GSP).[4]

STRUCTURE OF THE DOMESTIC INDUSTRY

Information from domestic products reveals that the domestic capability to produce toys for pets, of textile materials, still exists. Domestic producers also indicate that the subject toys for pets are produced in both cottage-type and mass production operations in the United States. There are known to be 10 producers, and it is believed there may be more. The largest producers, and the locations of their operations, are reported to be as follows:

COMPANY AND ADDRESS

Dr. A. C. Daniels, Inc.—RFD 5, Worcester Road, Webster, MA 01570.
Petway Products Distributors, Inc.—578 Nepperhan Avenue, Yonkers, NY 10701.
S & T Knitting Co.—301-307 Water Street, Binghamton, NY 13901.

DOMESTIC PRODUCTION

Production data in the United States for toys for pets, of textile materials, is not separately reported. However, based upon estimates derived from industry sources, the value of annual domestic production is believed to be about $1 million.

U.S. IMPORTS

U.S. imports of the subject toys for pets are not separately reported. One importer estimates his entries to be $1 million in 1980, $1.5 million in 1981, and $2.0 million in 1982. Furthermore, it is estimated that total imports of the subject toys for pets did not exceed $5 million in 1982. Importers have indicated that the primary sources of these toys for pets were Korea, Taiwan, Hong Kong, Thailand, and Haiti.

U.S. EXPORTS

U.S. exports are believed to be nil or negligible.

APPARENT U.S. CONSUMPTION

Estimates of domestic consumption are not available. However, by comparing the data obtained from various industry sources, it is believed that the level of imports is four or five times domestic production on an annual basis. It also appears that a significant domestic market exists for such toys for pets and virtually all imports and production are consumed domestically.

POTENTIAL ANNUAL LOSS OF REVENUE

It is estimated, based upon imports valued at $5 million in 1982, that the loss of customs revenues resulting from the enactment of this legislation would be about $1 million per year. This figure would be reduced in later years, however, since most of the schedule 3 rates of duty are subject to annual reductions under the MTN. For example, although about $1.4 million of customs revenue was collected in 1982, if

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[3] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column numbered 1 applies.

[4] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

the post-MTN rates had been in effect, only a little over $500,000 would have been collected. Estimates of the duties collected, based on fiber content, according to various rate assumptions, are shown in the following tabulation:

[Amount in dollars]

Fiber content	1982 collections	Post-MTN collections	Proposed legislation
Cotton	593,625	282,925	212,500
Vegetable fibers	9,332	7,877	17,000
Wool	9,275	4,375	4,250
Manmade fibers	830,700	239,175	191,250
Total	1,442,932	534,352	425,000

H.R. 2299

To provide for the enforcement of an arrangement between the United States and the Commission of the European Communities concerning imports of steel pipe and tube products.

No reports or comments were received on this bill.

H.R. 2316

To reduce temporarily the duty on odd-shaped or fancy watch crystals to the rate applicable to round watch crystals.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27 and May 10, 1983, the Administration testified that it had no objection to a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

We believe that the effective date of all bills that are not a continuation of current tariff treatment should be no sooner than fifteen days after enactment. Providing an effective date fifteen days after enactment will enable the U.S. Customs Service to notify its field offices and U.S. importers of changes made.

* * * * * * *

H.R. 2316—"To reduce temporarily the duty on odd shaped or fancy watch crystals to the rate applicable to round watch crystals."

We have no objection to enactment of H.R. 2316. There is no U.S. production of fancy shaped watch crystals. Enactment of H.R. 2316 would assist the domestic watch industry in meeting foreign competition by reducing its costs. Since the bill would temporarily reduce the duty on fancy or odd-shaped watch crystals, it would result in a small decrease in revenues to the U.S. Treasury. The USITC estimates this loss at about $47,000 in the first year.

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We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 2316, if enacted, would reduce temporarily the most-favored-nation (MFN) rate of duty on odd-shaped or fancy watch crystals to the rate applied to round watch crystals (currently 6.2 percent ad valorem) during the 3-year period beginning on the date of the enactment of the Act. The legislation would similarly reduce the least developed developing countries (LDDC) rate [1] during this period. The duty on round watch glasses was originally negotiated with France to a level below that of the other watch glasses; it was then applied on an MFN basis under the General Agreement on Tariffs and Trade (GATT) in 1948.

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[1] The preferential rates of duty in the "LDDC" column reflect the full U.S. MTN concession rates implemented without staging for particular items and apply to covered products of the least developed developing countries, enumerated in general headnote 3(d) of the TSUS. Where no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty in column numbered 1 applies.

DESCRIPTION AND USES

Watch glasses, other than round watch glasses, are made from strips of sheet or pressed glass which are cut, ground, pressed, or stamped to the desired shape and size. Plastic watch glasses, which are also classified in Tariff Schedules of the United States (TSUS) item 547.13, are made by injection molding. All of these types of glasses are used as crystals in watches. The U.S. and imported product are generally of the same quality, but the imported product often has a lower price.

TARIFF TREATMENT

The following table shows, for products entered under TSUS item 547.13, the column 1 rate of duty [2] prior to the Tokyo round of Multilateral Trade Negotiations (MTN), the staged reductions in the column 1 rate of duty, and the column 2 rate of duty.[3] Imports under this item from all beneficiary developing countries are eligible for duty-free entry under the Generalized System of Preferences (GSP).[4] LDDC imports are dutied at 9.6 percent ad valorem.

[2] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

[3] The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

[4] The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

TSUS item No.	Description	Pre-MTN col. 1 rate of duty 1/	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1--			
			1980	1981	1982	1983
	Clock and watch glasses and other protective glasses:					
	Watch glasses:					
547.13A	Other than round	24%	22.2%	20.4%	18.6%	16.8%

TSUS item No.	Description	Staged col. 1 rates of duty effective with respect to articles entered on or after Jan. 1--Continued				Col. 2 rate of duty
		1984	1985	1986	1987	
	Clock and watch glasses and other protective glasses:					
	Watch glasses:					
547.13A	Other than round	15%	13.2%	11.4%	9.6%	60%

1/ The designation "A" indicates that the item is currently designated as an eligible article for duty-free treatment under the U.S. Generalized System of Preferences and that all beneficiary countries are eligible for the GSP.
2/ Rate effective prior to Jan. 1, 1980.

Round watch glasses are dutied, under item 547.11, at a column 1 rate of 6.2 percent ad valorem, an LDDC rate of 4.9 percent ad valorem, and a column 2 rate of 60 percent ad valorem. Round watch glasses are also eligible for GSP treatment.

STRUCTURE OF THE DOMESTIC INDUSTRY

The U.S. watch glass industry is small, with six known firms producing glass and plastic watch glasses. Most of these firms are located in the New York City area and are privately held. In general, the industry sells most of its production in the watch glass replacement market. Several firms manufacture products other than watch glasses, such as gauge glasses, clock covers, and thermometers. Some firms import watch glasses to be sold to manufacturers, retailers, and wholesalers of watches and watch cases. Several of these firms also have a significant export market, shipping watch glasses to many countries. It is believed that the five largest companies account for at least 80 percent of the industry's sales.

The six firms producing watch glasses are:
American Perfit Crystal Corp./BB Crystal Co., New York, New York.
Crystalline Manufacturing Co., Long Island, New York.
Germanow-Simon Machine Co., Inc., Rochester, New York.
Glasflex Corp., Stirling, New Jersey.
Irving Sapirstein Co., Inc., New York, New York.
Standard Unbreakable Watch Crystals, Bronx, New York.

Employment data for this industry are unavailable, but the number of employees is believed to be small (less than 200).

DOMESTIC PRODUCTION

Official statistics on the production of watch glasses other than round watch glasses are unavailable. These statistics are reported under a residual or "basket" category covering all watch glasses and various other glass articles and are not separately collected.

U.S. IMPORTS

U.S. imports of watch glasses other than round watch glasses declined significantly during 1978–81, from 724,632 dozen, valued at $1.4 million, in 1978 to 90,861 dozen, valued at $790,305, in 1981, an 87 percent decline in quantity. U.S. imports rose slightly in 1982 to 95,419 dozen, valued at $451,562. GSP imports were negligible, accounting for less than 1 percent of U.S. imports during 1980–82. There were no GSP importations in 1978 and 1979.

The decrease in watch glass imports is primarily a result of decreased U.S. watch and watch case production and increased watch imports. In addition, some plastic watch glasses have recently been classified as parts of watches, and industry sources state that some other importations containing watch glasses have been classified as watch parts.

In 1982, the United Kingdom, Japan, and France were the principal suppliers of this merchandise, accounting for nearly 85 percent of imports by quantity. During the 5-year period under consideration, there were no importations from column 2 countries.

U.S. EXPORTS

Official statistics on exports of watch glasses other than round watch glasses are unavailable, since data on these exports are reported under a basket category covering many glass articles and are not separately collected.

APPARENT U.S. CONSUMPTION

Due to the lack of data as to domestic production and U.S. exports, the level of apparent U.S. consumption cannot be determined. It is believed, however, that apparent U.S. consumption of these articles declined during the period due to the falling rate of production of the U.S. watch industry, increased imports of watches, and decreased watch glass imports.

POTENTIAL ANNUAL LOSS OF REVENUE

Based upon 1982 import data, the 1983 rate of duty, and the proposed rate of duty for watch glasses other than round watch glasses, customs revenues would likely decline by about $47,000 in the first year following enactment of the legislation. Due to the declining value of these imports, which are projected to continue during the period, it is believed that revenue losses would decrease over the effective period of the duty reduction.

TECHNICAL COMMENTS

Several problems exist in the legislation as drafted. First, to be consistent with other Appendix items and to provide certainty as to the duration of the reduction, a definite date should be included in the effective period column of the proposed item. Second, the reduced LDDC rate of duty proposed for these watch glasses would not appear in the TSUS unless the proposed Appendix item is modified. Third, enactment of item 909.40 would not necessarily result in equivalent treatment for all watch glasses. Beginning in 1984, the round watch glasses would be dutied at a column 1 rate of 5.9 percent ad valorem, as a result of the staged reductions granted under the Tokyo round of the MTN. In 1985, round watch glasses classified in item 547.11 will be dutied at 5.6 percent ad valorem, and in 1986 at 5.2 percent. To achieve similar duty treatment for watch glasses other than round watch glasses, these scheduled reductions must be taken into account.

To remedy these problems, the new item in subsection (a) should be modified and proposed subsection (b) modified as follows:

"909.40	Watch glasses other than round watch glasses (provided for in item 547.13, part 3C, schedule 5).	6.2% ad val.....	4.9% ad val.....	No change	On or before 12/31/86"

(b) Effective with respect to articles provided for in item 909.40 (as added by subsection (a)) that are entered, or withdrawn from warehouse for consumption, on or after each of the dates set forth below, column 1 for such item is amended by striking out the rate of duty in effect on the day before such date and inserting in lieu thereof the rate of duty appearing below next to each such date:

Date:	*Rate of duty*
January 1, 1984	5.9% ad val.
January 1, 1985	5.6% ad val.
January 1, 1986	5.2% ad val.

It is also suggested that the Act be made effective on the fifteenth day following its enactment, to ease implementation of the new item.

H.R. 2320

To extend until July 1, 1986, the existing suspension of duty on certain textile fabrics used in the manufacture of hovercraft skirts.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27 and May 10, 1983, the Administration testified that it had no objection to a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

We believe that the effective date of all bills that are not a continuation of current tariff treatment should be no sooner than fifteen days after enactment. Providing an effective date fifteen days after enactment will enable the U.S. Customs Service to notify its field offices and U.S. importers of changes made.

* * * * * * *

H.R. 2320—"To extend until July 1, 1986, the existing suspension of duty on certain textile fabrics used in the manufacture of hovercraft skirts."

We have no objection to enactment of H.R. 2320. We understand that there is no domestic production of natural rubber coated fabric for use as skirts for hovercraft. Natural rubber coated fabric is qualitatively different from synthetic rubber coated fabrics which are produced domestically. The two types of fabric appear to be sufficiently different to be not directly competitive. Since there is no statistical breakout for hovercraft skirts in the tariff schedules, it is not possible to estimate the revenue loss from enactment of H.R. 2320.

* * * * * * *

We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

H.R. 2335

To provide for a temporary suspension of the duty on 2-(4-aminophenyl)-6-methylbenzothiazole-7-sulfonic acid until January 1, 1986.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27 and May 10, 1983, the Administration testified that it had no objection to a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

We believe that the effective date of all bills that are not a continuation of current tariff treatment should be no sooner than fifteen days after enactment. Providing an effective date fifteen days after enactment will enable the U.S. Customs Service to notify its field offices and U.S. importers of changes made.

* * * * * * *

H.R. 2335—"To provide for a temporary suspension of the duty on 2-(4-aminophenyl)-6 methylbenzothiazole-7-sulfonic acid until January 1, 1986."

We have no objection to enactment of H.R. 2335. We understand that there is no U.S. production of this chemical intermediate. It is estimated that enactment of H.R. 2335 would result in potential revenue losses of $397,600 per year, based on 1981 import volumes and current prices.

* * * * * * *

We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

BASF WYANDOTTE CORP.,
Parsippany, N.J., May 4, 1983.

Mr. JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MR. SALMON: The Trade Subcommittee of the Committee on Ways and Means is currently holding hearings on miscellaneous tariff bills including H.R. 2335, introduced on March 24, 1983, by Mr. Solomon, which provides for a 3-year suspension of duty on 2-(4-aminophenyl)-6-methylbenzothiazone-7-sulfonic acid.

This chemical, also known as Dehydrothiotoluidine Sulfonic Acid (DSA), is an intermediate used primarily for production of dyes used for paper. There are no domestic suppliers for this intermediate since the discontinuation of production by DuPont at the end of 1979. All current imports come from Europe and were reported to be 405,000 pounds for 1981. DSA is a major component and a significant cost factor in U.S. paper dye production.

DSA is utilized for the manufacture of dyes used in the paper trade. Primary uses are for coloring bathroom tissues, paper towels, paper napkins, facial tissues, stationery and business forms.

The major dyes produced from this intermediate are Direct Yellow 119, 127, 137 and 147. Estimated consumption of DSA was over 400,000 pounds in 1981, which would result in more than 4,000,000 pounds of dyestuffs production at a value that exceeds $7 million.

The paper dyes produced from this intermediate compete against other paper dyes, including Direct Yellow 84, 107, 132 and 148, and some imports. There is a growing export market also for U.S. manufacture. DSA is used by at least six domestic manufacturers. Elimination of the duty would thus benefit a significant part of the dyestuffs industry.

BASF Wyandotte Corporation supports H.R. 2335 and urges its approval by the Trade Subcommittee and the Committee on Ways and Means.

Sincerely yours,

ROBERT G. THOMA,
Director, Public and Government Affairs.

H.R. 2336

To provide for a temporary suspension of the duty on 6-amino-1-naphthol-3-sulfonic acid until January 1, 1986.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27 and May 10, 1983, the Administration testified that it had no objection to a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

We believe that the effective date of all bills that are not a continuation of current tariff treatment should be no sooner than fifteen days after enactment. Providing an effective date fifteen days after enactment will enable the U.S. Customs Service to notify its field offices and U.S. importers of changes made.

* * * * * * *

H.R. 2336—"To provide for a temporary suspension of the duty on 6-amino-1-naphthol-3-sulfonic acid until January 1, 1986."

We have no objection to enactment of H.R. 2336. There is no domestic production of this chemical for the merchant market. One U.S. company is known to produce this chemical for captive use, but this company, along with other U.S. users, must occasionally import this chemical. A duty suspension on this product would reduce costs to U.S. purchasers and would have no negative effect on U.S. production. Enactment of H.R. 2336 will result in a potential revenue loss of approximately $407,000 per year.

* * * * * * *

We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

BASF WYANDOTTE CORP.,
Parsippany, N.J., May 4, 1983.

Mr. JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means, House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MR. SALMON: The Trade Subcommittee of the Committee on Ways and Means is currently holding hearings on miscellaneous tariff bills, including H.R. 2336, introduced on March 24, 1983, by Mr. Solomon, which provides for a 3-year suspension of duty on 6-amino-1-naphthol-3-sulfonic acid, (J Acid).

J Acid is a chemical used extensively as an intermediate for azo dyestuff manufacture with major uses in paper and cotton products. The last U.S. producer was American Color and Chemical Corporation, which discontinued production in 1981. Current sources of supply are from Italy, West Germany, Japan and People's Republic of China. Total imports in 1981 were reported to be 815,000 pounds by the USITC.

J Acid is used extensively in the manufacture of dyes used for coloring paper products, cotton, viscose and fiberglass. The primary paper usages include bathroom tissues, towels, napkins, facial tissues, stationery and business forms.

J Acid is used directly or by conversion to J Acid urea or Phenyl J Acid to make dyes for the uses indicated. The more significant products used for paper in the U.S. for domestic and export sales include: Direct Red 72, 102, 236 and 254, Direct Orange 102 and Acid Red 137. Some of the six domestically produced products also compete against related dyes currently being imported, including Direct Red 239 and Direct Orange 118.

In the cotton and viscose area, the major U.S. products include Direct Red 23, 24, 72, 80, 81 and 83, Direct Orange 26 and Acid Red 137. Based on USITC data, these uses accounted for more than 3.3 million pounds of production in 1981 and estimated sales over $10.7 million.

Dyestuffs products based on J Acid are produced by at least ten domestic manufacturers. Imports of J Acid-related dyes totaled over 130,000 pounds in 1981 and are increasing. In addition to sales in the United States, there are also export sales from domestic producers who compete against foreign producers. Elimination of the duty would thus benefit a wide spectrum of the dyestuffs industry.

BASF Wyandotte Corporation supports H.R. 2336 and urges its approval by the Trade Subcommittee and the Committee on Ways and Means.

Sincerely yours,

ROBERT G. THOMA,
Director, Public and Government Affairs.

BATTERY COUNCIL INTERNATIONAL,
Washington, D.C., May 16, 1983.

JOHN J. SALMON,
Chief Counsel, Committee on Ways and Means,
Longworth House Office Building, Washington, D.C.

DEAR MR. SALMON: The Battery Council International, representing 50 U.S. manufacturers of lead acid storage batteries, supports H.R. 1967, providing for a five year extension of the current rate of duty on unwrought lead. This duty, combining a rate of 3 percent *ad valorem* with a minimum of 1.0625 cents per pound, has proved effective in the last two years in a situation of sharp changes in the price of lead.

Sincerely,

ROBERT H. WILBUR,
Director of Government Relations.

H.R. 2381

To amend the Tariff Act of 1930 to exempt from duties, equipment and repairs to certain vessels, and for other purposes.

DEPARTMENT OF COMMERCE

This is in response to your request for the views of this Department on various miscellaneous trade bills. On April 27, 1983, the Administration testified that it objected to enactment of a number of bills which presently are being considered by your Committee. This letter is intended to explain the Department's views on those bills. Enactment of these bills would have no impact on the revenues to or administrative costs of this Department.

* * * * * * *

H.R. 2381—"To amend the Tariff Act of 1930 to exempt from duties, equipment and repairs to certain vessels, and for other purposes."

We object to enactment of H.R. 2381. We believe that H.R. 2381 may be too restrictive to be of substantial benefit to the U.S.-flag merchant marine. We believe that legislation proposed by the Secretary of Transportation on April 8, 1983, would be preferable to that contained in H.R. 2381. This proposed legislation would implement five promotional elements of the President's announced maritime policy initiatives. Section 202 of the draft legislation would repeal section 466 of the Tariff Act of 1930, so that ad valorem duties would no longer apply to repairs purchased by U.S.-flag vessels, whether or not a U.s.-flag vessel was continually abroad for two years or more.

We believe that these ad valorem duties adversely affect the ability of U.S.-flag vessels to compete with foreign-flag vessels. By requiring U.S.-flag vessels to return to the United States for such repairs, this ad valorem duty limits the flexibility of our liner operators, places undue hardship on our bulk carriers operating in foreign-to-foreign trades, and results in the interruption of service with the loss of operating revenues. The U.S. International Trade Commission estimates that enactment of H.R. 2381 will result in an averge annual revenue loss of approximately $3.3 million based on 1977–81 revenue data.

* * * * * * *

We have been advised by the Office of Management and Budget that there is no objection to submission of this report to Congress from the standpoint of the Administration's program.

STATEMENT OF CHARLES I. HILTZHEIMER, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, SEA-LAND INDUSTRIES, INC.

Thank you, Mr. Chairman. I am Charles I. Hiltzheimer, Chairman of the Board and Chief Executive Officer of Sea-Land Industries, Inc. Our operating affiliate Sea-Land Service, Inc. is the world's largest container transportation system, operating 40 U.S.-flag containerships, 81,000 containers and 46,000 highway chassis between 180 ports and cities in 57 countries and territories. I am accompanied today by Karl E. Bakke, Esq. of the Washington, D.C. Law firm Ragan & Mason and am pleased to have this opportunity to appear before the Subcommittee in support of H.R. 2381. This bill would provide a qualified exemption from the present 50 percent customs duty on routine repairs and equipment obtained abroad by any U.S.-flag vessel. The exemption would be provided for any vessel that has been continuously absent from the United States for two years or more.

The present 50 percent duty is a punitive measure that was written into the customs law more than 100 years ago to protect the domestic shipbuilding industry. Its purpose was to discourage operators of U.S.-flag vessels from purchasing equipment, or having maintenance or repair work of a nonemergency nature performed in foreign yards.

That assumption was perfectly valid until recent years. Unlike many maritime nations such as England, Scandinavia and other European countries that have made cross-trading an instrument of national economic policy, the U.S.-flag commercial fleet traditionally engaged predominantly in round-trip voyages of limited duration in our own import and export trades. Indeed, this is still the case for most U.S.-flag vessels. However, times, technology and trading patterns are changing, and there are now many vessels of U.S. registry that operate regularly in foreign waters for years at a time without returning to the United States.

The Congress recognized this fact in 1971 to some degree, when it provided an exemption from the duty for fishing boats and other special-purpose vessels, such as barges, sea-going oil rigs and research ships, provided they remain away from the United States for two years or more, as many now do. The Senate Finance Committee found that: "The amendment would not adversely affect American shipyards or American labor since these vessels would have to be in foreign or international waters for 2 years or more in order to be relieved from payment of the duty, *and could not in any event be repaired in U.S. shipyards during their voyages.* * * * (S. Rept. No. 91-1474, 91st Cong., 2d Sess.; 1970 U.S. Code Cong. and Admin. News, p. 5911.)" [Emphasis added.]

This very same finding is equally valid with respect to the vessels to which H.R. 2381 now proposes to extend the same treatment. Where there is foreign deployment over extended periods of time, it simply is not economically feasible to return such vessels from their dedicated foreign service to the United States for routine maintenance and repair work. Accordingly, U.S. shipyards are not and would not be deprived of a single dollar of work that they might otherwise reasonably expect. That work is, of necessity, done abroad in the normal course of the vessel's regular foreign-to-foreign voyages.

On the other hand, the penalty imposed on U.S.-flag operators by the 50 percent duty on equipment and repairs that cannot feasibly be acquired in domestic yards represents a significant extra cost burden, and adds to the competitive disadvantage they suffer in relation to their lower-cost foreign competitors. I might add that there is not one single other country in the world known to assess such a duty on their vessels, however short the period they may have been absent from home waters.

The magnitude of the problem can perhaps best be demonstrated by a specific example. For a number of years prior to 1977 two of our vessels, *Beauregard* and *Raphael Semmes*, had been used exclusively in foreign-to-foreign trade in the Pacific in connection with supply of our armed forces in the Vietnam war. With cessation of hostilities, Sea-Land was faced with the question of what to do with those vessels.

One option was to bring them back for employment in trades calling at U.S. ports. However, substantial routine repair costs had been incurred during their stay abroad, and it was estimated that the duty liability on that nonemergency work would be between 300 and 400 thousand dollars per vessel if they returned to the United States.

This fact ultimately led to a decision to scrap the vessels abroad, which meant that U.S. shipyards were deprived of the future maintenance and repair work that would have been booked if they had been returned for further productive use. Under these circumstances, the duty provision involved actually worked to the *dis*advantage of U.S. yards, as well as to that of Sea-Land.

Sea-Land is not alone in the classic Catch-22 dilemma to which H.R. 2381 is addressed. Other U.S.-flag operators also have merchant vessels presently dedicated on a long-term basis to service away from home. Those operators may ultimately wish to bring their vessels back into the U.S. trades, at which time duties on foreign equipment and repairs would be assessed.

As a matter of fact, the law as it now stands would apply to privately-operated U.S.-flag merchant vessels under charter to the Department of Defense and required to be out of the United States as part of the prepositioned logistical support for the Rapid Deployment Force Program. A more egregious inequity is difficult to imagine.

Passage of H.R. 2381 would lay to rest this penalty for not having done what could not reasonably have been done under the circumstances in the first place.

Let me repeat that the 2-year absence requirement for eligibility, as in the case of special-purpose vessels now entitled to the duty exemption, would fully protect the interests of domestic shipyard operators and labor as there is no way that the repairs could have been performed by such operators and labor in the first instance.

Mr. Chairman, what H.R. 2381 seeks to accomplish is a modest step in the direction of relieving the U.S. Merchant Marine from one of the governmentally-imposed cost burdens that impair its ability to compete effectively with foreign-flag counterparts (including state-owned carriers of both the Eastern Bloc and the Third World)

that generally not only have lower operating costs but are heavily subsidized and accorded preferential tax treatment as well

Indeed, the Administration has advocated legislation for outright across-the-board repeal of the 50 percent duty requirement for precisely that reason (as expressed in a letter to the Congress from Secretary of Transportation Dole dated April 8, 1983), and implementing legislation has already been introduced in the Senate as section 203 of S. 1038.

In this connection, Mr. Chairman, it should be pointed out that until recently, U.S.-registry commercial aircraft also were subject to the 50 percent duty on foreign equipment and repairs. In 1979, the Congress provided a blanket exemption for such aircraft so as to foster operation of U.S. civil aviation on a commercially competitive basis with foreign air carriers.

Much the same rationale applies to the further amendment proposed in H.R. 2381; in fact, with even greater logic. Civil aircraft can much more readily be returned to U.S. facilities from abroad for non-emergency maintenance and repair, even if based abroad, than can merchant vessels, and at a fraction of the operating cost and out-of-service time. If the duty on foreign equipment and repairs represented a competitive burden on the U.S. commercial air fleet in the 1970's sufficient to warrant legislative relief, then surely the burden on the foreign-deployed segment of the U.S. Merchant Marine and the justification for a more limited form of relief—requiring a 2-year absence for eligibility—is exponentially greater.

In sum, the proposal in H.R. 2381 to exempt from duty on foreign repairs and equipment all vessels that are "on station" abroad for 2 years or more would be: logical and equitable; in accord with prior legislative action narrowing the scope of the duty requirement where a legitimate inequity or hardship was demonstrated; not in conflict with the legislative purpose underlying imposition of that duty; and consistent with the Administration's policy position that this antiquated statute should be repealed completely.

For these reasons, we strongly urge prompt and favorable action on H.R. 2381.

It should be noted that the revenue derived in recent years from foreign vessel repair entries has not been significant. Annex A shows that the average foreign repair duties collected in the period 1978–82 on all U.S.-flag vessels was $2,433.11. Indeed, given this modest return, it may very well be that the administrative cost of processing such entries exceeded the revenue derived.

In this connection, Mr. Chairman, I would like to state that Sea-Land would not object to elimination of the foreign repair duty entirely, as advocated by the Administration. However, if the Congress elects to adopt this approach rather than the more limited amendment proposed in H.R. 2381, we would strongly suggest that repeal be made applicable not only prospectively but also to any foreign vessel repair entry made before the date of enactment that had not been liquidated as of January 1, 1983, such as provided in H.R. 2381 for entries of vessels meeting this bill's 2-year absence test (section 2(b)).

That completes my prepared statement, Mr. Chairman. I would be pleased to answer any questions you or members of the Subcommittee may have.

ANNEX A.—AVERAGE DUTY PER VESSEL REPAIR ENTRIES AND DUTIES: 1978–82

Year	Commercial vessel entries	Vessel repair entries	Foreign repair duties	Average repair duty per vessel repair entry
	(1)	(2)	(3)	(4)
1978	104,253	2,482	$2,237,716	$901.58
1979	110,947	2,144	2,195,672	1,024.10
1980	108,876	1,998	2,821,094	1,411.96
1981 [1]	107,848	2,124	7,490,397	3,526.55
1982 [2]	101,874	2,184	11,958,332	5,475.43
5-yr. average	106,760	2,136	5,340,642	2,433.11

[1] The increase in repair duties in 1981 and 1982 reflects the liquidation of a backlog of repair entries for earlier years, thus inflating the amount of duty collected. Accordingly, since the number of repair entries in each of the 5 calendar years shown remained quite constant, the best gage of the actual level of nonemergency foreign repairs is a 5-year average of the duties paid (bearing in mind that the duties represent 50 percent of the actual expense of such repairs).

Source: "Customs U.S.A.," annual report 1982 p. 32–34; entry and liquidation statistics, report AR 5401 (end of year report) of the U.S. Customs Services.

H.R. 2502

To suspend for the 3-year period beginning on October 30, 1983, the duty on canned corned beef.

U.S. INTERNATIONAL TRADE COMMISSION

PURPOSE OF THE LEGISLATION

H.R. 2502, if enacted, would suspend for a 3-year period beginning on October 30, 1983, the import duty on canned corned beef (Tariff Schedules of the United States (TSUS) item 107.48). The legislation would eliminate a differential in the column 1 rate of duty [1] applicable to U.S. imports of canned corned beef from Brazil and Argentina (the two leading U.S. suppliers).[2]

DESCRIPTION AND USES

Imported canned corned beef (TSUS item 107.48) is prepared by dicing beef into 1 inch cubes, cooking it in water, curing and seasoning it in a sodium nitrite brine solution and then canning and sterilizing it.

Approximately 80 percent of the imported canned corned beef is in containers each holding 6¾, 8 or 10 pounds and most is used by food processors to make corned beef hash; some is used by institutions for slicing and making sandwiches. Most U.S. producers of corned beef hash report that they mix the imported canned corned beef, which is leaner and less moist than domestic beef, with domestic fresh beef and/or imported frozen beef in order to obtain a product that meets Federal standards of identity for corned beef hash. One large U.S. producer of hash reports using only imported canned corned beef because its low fat and moisture content renders it more feasible for making hash than any domestic beef.

Approximately 20 percent of the imports consist of 8 and 12 ounce cans commonly found in grocery stores for retail sale; these imports are used for making sandwiches, salads, and casseroles.

The great bulk of U.S. production of pasteurized canned corned beef is marketed in containers each holding 12¾ pounds. Most of this beef is sold to institutions for slicing and making sandwiches. This product is not sterilized and requires refrigeration, whereas the imported product is sterilized and does not require refrigeration. A small quantity of sterilized canned corned beef is reported to be produced in the United States at least periodically. This product is in retail-sized (12 ounce) containers and mostly used for the same purposes as the imported beef.

A type of corned beef, which is not canned or comminuted, is known to be produced in substantial quantities in the United States. Most of this corned beef (not to be confused with canned corn beef) is prepared by pumping a salt brine into less expensive cuts of beef such as briskets. Much of this beef is sliced and made into sandwiches commonly sold in restaurants and delicatessens.

TARIFF TREATMENT

The current rates of duty applicable to U.S. imports of canned corned beef are shown in the table on page 3:

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[1] The rates of duty in rate of duty column numbered 1 are Most-Favored-Nation (MFN) rates and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. The People's Republic of China, Hungary, Romania, and Yugoslavia are the only Communist countries currently eligible for MFN treatment. However, MFN rates would not apply to products of developing countries if preferential tariff treatment is granted under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

[2] See Traiff treatment section.

Table 1.--Canned corned beef: U.S. rates of duty, by TSUS item

(Percent ad valorem)

TSUS item 1/	Description	Col. 1 rate of duty 2/	Col. 2 rate of duty 3/
107.48A*	Canned corned beef	3%	30%

1/ The designation "A*" indicates that the item is currently designated as eligible for duty-free treatment under the U.S. Generalized System of Preferences (GSP) but certain countries, specified in general headnote 3(c) of the Tariff Schedules of the United States are not eligible for the GSP.

2/ The column 1 rate of duty was subject to staged reductions to 7.5% as a result of the Kennedy round of the Multilateral Trade Negotiations (MTN), but the rate was not reduced as a result of the Tokyo round of the MTN.

3/ The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

As a result of the United States-Argentine Agreement Concerning Hide Exports and other Trade Matters (TIAS 9976) the United States, among other things, reduced the post-Kennedy round column 1 rate of duty for canned corned beef from 7.5 percent ad valorem to 4.5 percent ad valorem on October 1, 1979, and to 3.0 percent ad valorem on October 1, 1980 (Pres. Proc. 4694, September 29, 1979).

Because Argentina took action inconsistent with its obligation under the Agreement, the President terminated the Agreement (Pres. Proc. 4993, October 30, 1982) and, among other things, provided that the current column 1 rate of duty applicable to TSUS item 107.48 would remain in effect until October 30, 1983, at which time it will revert to 7.5 percent ad valorem, unless this proclamation by the President is superseded by subsequent legislative action.

Imports from Brazil, unlike those from Argentina, are currently not afforded GSP treatment because Brazil exceeded the compeitive need criteria in 1982.[3] Thus, imports from Brazil are currently dutiable at the rate of 3 percent ad valorem, but effective October 30, 1983, they will become dutiable at 7.5 percent ad valorem, while imports from Argentina as well as those from all other beneficiary developing countries will enter free of duty.

STRUCTURE OF THE DOMESTIC INDUSTRY

The domestic industries that might be affected by enactment of this legislation include those that use imported canned corned beef in the manufacture of other food products (corned beef hash) as well as those that produce canned corned beef.

The domestic canned corned beef, in 12¾ pound containers, is made by the Wilson Foods Corporation, Cedar Rapids, Iowa. The domestic retail-sized canned corned beef, in 12-ounce containers, is made by the Old Ranchers Canning Company, Upland, California.

The principal U.S. food processing companies using imported canned corned beef in making corned beef hash are: Geo. A. Hormel and Co., Beloit, Wisconsin, and Stockton, California; Trenton Foods, Trenton, Missouri; Libby McNeil & Libby, Chicago, Illinois; Armour & Co., Fort Madison, Iowa, and Phoenix, Arizona; Vince Maid Co., Inc., Vineland, New Jersey; and Castleberry's Foods, Augusta, Georgia.

Normally, plants that produce corned beef hash also produce other food items.

DOMESTIC PRODUCTION

Data on U.S. production of canned corned beef, as reported by the U.S. Department of Agriculture, are shown in the following tabulation:

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[3]The GSP is a program of nonreciprocal tariff preferences granted by the United States to developing countries to aid their economic development by encouraging greater diversification and expansion of their production and exports. The GSP, as enacted in title V of the Trade Act of 1974 and implemented by Executive Order No. 11888 of November 24, 1975, applies to merchandise imported on or after January 1, 1976, and is scheduled to remain in effect until January 4, 1985. It provides for duty-free entry of eligible articles imported directly from designated beneficiary developing countries.

[In thousands of pounds]

Year:	Quantity [1]
1978	1,895
1979	1,676
1980	877
1981	904
1982	843

[1] These data include canned corned beef that is pasteurized but, unlike the imported product, not sterilized.

U.S. IMPORTS, EXPORTS, AND APPARENT CONSUMPTION

U.S. imports of canned corned beef have declined irregularly from 83 million pounds in 1978 to 69 million pounds in 1982 (table 2). The value of imports declined from a peak of $113 million in 1980 to $74 million in 1982 (table 3). Imports accounted for nearly all of U.S. consumption during 1978–82.

In 1982, imports from Brazil amounted to 36 million pounds and accounted for 52 percent of total imports, while imports from Argentina amounted to 30 million pounds, or 44 percent of the total. There were no imports from countries subject to the column 2 rate of duty.

Data are not available on U.S. exports of canned corned beef. One company that produces the product reported that only very limited quantities of canned corned beef have been exported.

POTENTIAL ANNUAL LOSS OF REVENUE

If the customs duty on canned corned beef (TSUS item 107.48) had been suspended in 1982, the loss of revenue would have been $1.2 million, assuming that the quantity of imports would have been unaffected by changes in the rate of duty.

LIBBY, MCNEILL & LIBBY, INC.,
Chicago, Ill., April 29, 1983.

Hon. SAM M. GIBBONS,
Chairman, Trade Subcommittee, Rayburn House Office Building, House of Representatives, Washington, D.C.

DEAR MR. GIBBONS: I am writing to you in reference to HR 2502 which has been introduced and is currently undergoing hearings by your sub-committee. I would very much have liked to have had the opportunity to testify in person regarding my support for this bill, however, corporate commitments prohibit me from doing so. I, therefore, request your consideration in entering this letter into the record.

Canned Corned Beef is a product of great importance to Libby, McNeill & Libby, Inc. In fact, our founder, Mr. Arthur A. Libby, was the person who in the late 1800's first cured or "corned" beef and developed the traditional tapered can in which it has been packed ever since. This was the first product that led Libby, McNeill & Libby into the canned food business.

Libby's canned corned beef received the highest award at the World's Columbian Exposition in Chicago in 1893, remains virtually unchanged, and, in 1983 is enjoyed by many middle and lower income families as an economical source of high protein, low fat beef in their diet.

To the best of my knowledge, there is no packer of canned corned beef in the United States which currently offers the product for sale at retail to consumers. The corned beef industry has been located in South America since the early 1900's due to the availability of extremely lean range fed cattle in those countries. Over these many years, canned corned beef has been imported into the United States with little apparent effect upon our domestic industry.

Domestically produced canned luncheon meat has grown during this period to reach a level of $188 million in retail sales annually as compared with the $84 million a year canned corned beef market segment. There is apparently little cross over competition due to the product differences. Domestic luncheon meats are primarily pork based, while canned corned beef is 100% beef.

In fact, the availability of canned corned beef from South America has fostered yet another segment within the canned meat industry. South American canned corned beef is used as a primary ingredient in corned beef hash which is produced

domestically by more than 6 of the leading U.S. canned meat manufacturers and is a product category which amounts to over $65 million a year in annual sales.

It is difficult to depict canned corned beef as being anything other than a nutritious source of protein and a product which has been available to U.S. consumers throughout this many years without impacting upon U.S. production as there is no direct competition.

Our industry has been dependent upon the current 3% tariff in attempting to hold down prices to consumers during the past inflationary years. It seems unfair at this time, when the U.S. consumer's pocket book has been stretched tight, to burden them with additional expense through the imposition of an increased tariff. This is especially true, in that, the higher tariff implication arises out of situation between the U.S. and Argentina, yet because of the Generalized System of Preference, Argentina would not be required to be burdened by any tariff, while product of Brazil would incur an increased tariff of 7.5%

As the leading marketer of canned corned beef and a company who is eagerly looking forward to economic recovery in the U.S., I would strongly urge your consideration in moving HR 2502 through to passage in a prompt manner. The consumer, our company and indeed the canned meat industry in the U.S. would all benefit by the suspension of the current 3% tariff for 3 years until the Generalized System of Preference future is determined.

Imposition of the 7.5% tariff as it currently stands would lead to higher cost product to the consumer and lower sales and profits for those companies who import and sell canned corned beef.

I thank you for taking time to read this letter, including it in the record and for your consideration and support in the passage of the bill currently before you.

Sincerely,

GORDON D. JAMES,
Vice President, Grocery Products.

NATIONAL CATTLEMEN'S ASSOCIATION,
Englewood, Colo., May 2, 1983.

Hon. SAM M. GIBBONS,
Chairman, Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of the National Cattlemen's Association I am writing to express opposition to H.R. 2502: To suspend the duty on canned corned beef for a period of three years beginning on October 30, 1983.

The United States imported 31,253 metric tons of canned corned beef at a value of 73.7 million dollars in 1982. This represents 4.7 percent of our total beef imports in volume and 5.4 percent in total value.

The United States made concessions on canned corned beef in 1979 while negotiating an agreement on cattle hides with Argentina. The government of Argentina did not live up to this agreement where upon the U.S. has withdrawn it. H.R. 2502 proposes to further reduce the tarrif to zero. Argentina should not be further rewarded for not abiding to this agreement.

We believe the United States should not be making tariff concessions without getting something in return.

Canned corned beef is not subject to the Meat Import Law and therefore is imported without quantitative restrictions. We import significant amounts of this product while imposing only a modest tariff.

We do not believe the argument for suspension of duty on canned corned beef is worthy of consideration at this time and urge that H.R. 2502 be rejected.

Your consideration on this matter will be greatly appreciated.

Sincerely,

WM. J. WALDRIP, *President.*

H.R 2603

To extend nondiscriminatory treatment and other trade benefits to the Hungarian People's Republic during the 5-year period beginning on July 1, 1983.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE,
CONGRESS OF THE UNITED STATES,
Washington, D.C., May 10, 1983.

Hon. SAM GIBBONS,
Chairman, Subcommittee on Trade,
Cannon House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: As Chairman of the Commission on Security and Cooperation in Europe, I would like to comment on legislation (H.R. 2603 and 2770) introduced by you and other members to amend Section 402 of the Trade Act of 1974 for the purpose of extending most-favored-nation status and other trade benefits to Hungary for a period of five years. The current provisions of law call for 12-month extensions of these benefits following annual reviews by the President and Congress.

In considering your amendments I, of course, recognize that Hungary at the moment and for the first time has a clean slate as far as emigration cases involving the United States are concerned. Although the number of ourstanding cases have never been many, the Hungarian authorities obviously made a special effort in recent months to resolve the remaining obstacles in this area. This is clearly a positive development which we all welcome.

At the same time, there are other factors which I believe should also be weighed. For one thing, Hungarian laws and regulations on emigration are among the most restrictive of all the countries in Eastern Europe, including the Soviet Union. Such restrictive laws and regulations may very well have discouraged or otherwise inhibited many Hungarian citizens from applying to emigrate. This in turn may be one of the reasons why there are no outstanding emigration cases on the docket at the present time.

Furthermore, I am concerned by recent evidence that the Hungarian authorities have taken new measures to abridge the political and other human rights of certain Hungarian citizens. The dedication of the United States to fundamental human rights, as you know, forms the basis for Section 402 of the Trade Act of 1974. Any eventual revision of the Trade Act of 1974 might very well include a provision to reflect this broader concern in a more operative sense. Respect for fundamental human rights is also an integral part of the Helsinki Final Act of 1975 to which both the United States and Hungary are signatories.

In view of these reservations, I do not believe that this year is the opportune time to be considering multi-year MFN for Hungary even though its record has shown improvement. In my view, it is premature to be contemplating such an important step so soon after the resolution of the latest emigration question and while there are strong indications of deterioration in other human rights areas. For these and other reasons, I believe that the granting of multi-year MFN at this time would be giving the wrong signal to the Hungarian authorities who, under such an arrangement, would no longer have to take the views of the Congress into consideration each ; ear in determining their human rights policies.

In conclusion, I would like to say that, in the case of Hungary, the current provisions of the Trade Act of 1974 have worked well and we see no need for a change at this time. I would appreciate this letter being included in the record of your hearing on May 10.

Sincerely,

DANTE B. FASCELL, *Chairman.*

HUNGARIAN REFORMED FEDERATION OF AMERICA,
Washington, D.C., May 11, 1983.

Hon. SAM GIBBONS,
Chairman of the Subcommittee on Trade, Committee on Ways and Means, House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR SIR: As a former member of the Public Delegation, Conference on Security and Cooperation in Europe, Madrid, and in my capacity as the president of a nationwide fraternal insurance association, I wish to register my comments and go on record as opposing H.R. 2770 which seeks to extend trade benefits to the Hungarian government for a five year period beginning on July 1, 1983.

1. At the Madrid conference I personally observed the U.S. delegation doing its utmost to implement the principles of the Helsinki Final Act concerning human rights.

2. In the reports of the CSCE, at regular intervals, the violation of these principles by the Soviet Union and its satellites are listed and documented at regular intervals.

3. The proposal for the five year review will undermine the intent of Section 402 to make the human rights behavior a condition of trade benefits granted by the United States to satellite governments.

In conclusion: The Hungarian government is well rewarded for its initial steps in living up to those principles in granting the Most Favored Nation status with yearly reviews.

Sincerely yours,

REV. IMRE BERTALAN,
President.

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